

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





75-7627

**United States Court of Appeals**

FOR THE SECOND CIRCUIT

**Docket 75-7627**

COMPANIA PELINEON DE NAVEGACION, S.A.,

*Plaintiff-Appellant,*

—against—

TEXAS PETROLEUM COMPANY,

*Defendant-Appellee.*

**JOINT APPENDIX**

BURLINGHAM UNDERWOOD & LORD

*Attorneys for Plaintiff-Appellant*

25 Broadway

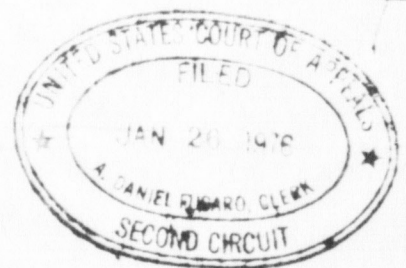
New York, New York 10004

BIGHAM, ENGLAR, JONES & HOUSTON

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99 John Street

New York, New York 10038



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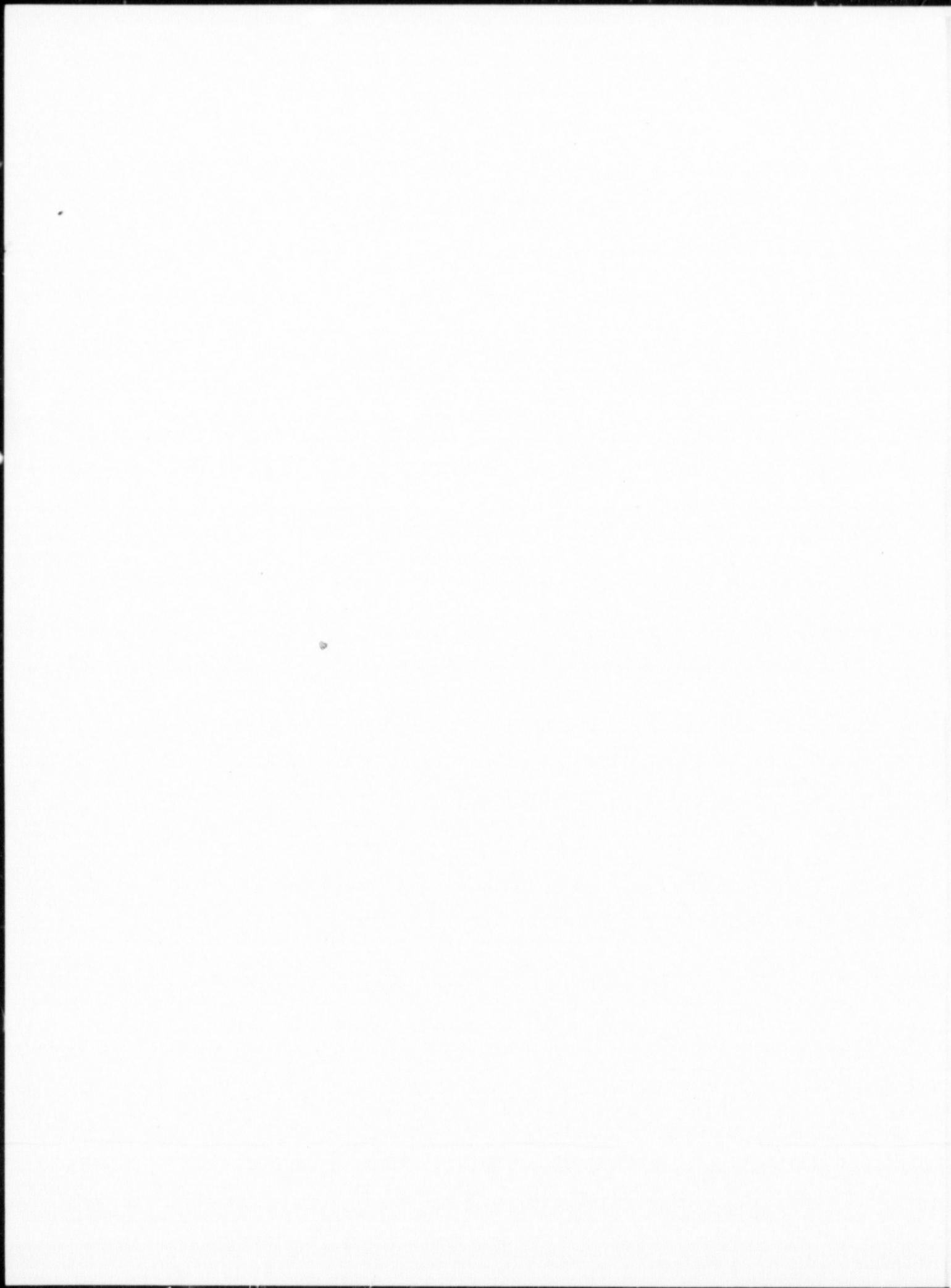


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### Relevant Docket Entries

73 Civ. 5033

Compania Pelineon De Navegacion, S.A. vs.  
Texas Petroleum Co.

DATE	PROCEEDINGS
Nov. 26, 73	Filed Complaint issued summons.
Mar. 24, 74	Filed Answer
Jun. 20, 75	Filed Pltffs. Request to Admit.
Jul. 13, 75	Filed answer to request to admit by deft.
Sep. 26, 75	Before Boldt, J.—Non-Jury Trial begun and continued.
Sep. 29, 75	Trial Continued and Concluded.—Decision Reserved.
Oct. 10, 75	Filed deft's findings of fact and conclusions of law—Boldt, J.
Oct. 10, 75	Filed Judgment #75,819—Pltff. recover from Deft. a total of \$75,258.05 with each side bearing its own costs—unless judgment be satisfied, or proceedings be stayed by an appeal, Pltff. shall have execution within 30 days after judgment is entered.—Boldt, J. Judgment Entered—Clerk—(m/n) ent. 10/16/75.
Nov. 5, 75	Filed Pltff's. Notice of Appeal to U.S.C.A. from judgment entered on 10/10/75. (Mailed Copies to Bigham, Englar).



**Complaint**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

73 Civ. 5033

---

COMPANIA PELINEON DE NAVEGACION, S.A.,

*Plaintiff,*

—against—

TEXAS PETROLEUM COMPANY,

*Defendant.*

---

Plaintiff Compania Pelineon de Navegacion, S.A., by its attorneys Burlingham Underwood & Lord, for its complaint alleges upon information and belief as follows:

First: This is a case of admiralty and maritime jurisdiction, as hereinafter more fully appears, within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

Second: Plaintiff is a Panamanian corporation and, at all times hereinafter mentioned, was the owner of the steamship CAPETAN MATHIOS which at the times hereinafter set forth was tight, staunch, strong, properly manned and in all respects seaworthy.

Third: At all times hereinafter mentioned, defendant Texas Petroleum Company was and now is a New Jersey corporation with an office and place of business at 135 East 42nd Street, New York, New York, and within the jurisdiction of this Honorable Court.

*Complaint*

Fourth: At all times hereinafter mentioned, Ernesto Nieto, a pilot, and the master, officers and crew of a vessel assisting the CAPETAN MATHIOS were in the employ of the defendant.

Fifth: At all times hereinafter mentioned, defendant was in control of and operated a crude oil loading sea berth situated in the Pacific Ocean off Tumaco, Colombia.

Sixth: In the morning of September 29, 1972, while defendant's pilot and employees were directing the navigation and mooring of the CAPETAN MATHIOS at the sea berth, Tumaco, Colombia, her propeller became fouled in the chain of one of the buoys marking the sea berth.

Seventh: The aforesaid fouling of the propeller of the CAPETAN MATHIOS was caused entirely by the negligence of the defendant's employees in that they failed to navigate the CAPETAN MATHIOS a sufficient distance from the buoy and buoy moorings while maneuvering the vessel into the berth.

Eighth: The aforesaid fouling of the CAPETAN MATHIOS' propeller was not caused or contributed to by any fault or neglect on the part of the CAPETAN MATHIOS or those in charge of her, but was caused solely by the fault and neglect of the defendant's employees—the pilot Ernesto Nieto and those aboard the assisting vessel.

Ninth: As a result of the fouling of the vessel's propeller, the plaintiff has sustained loss and damages in the amount of approximately \$800,000, no part of which has

*Complaint*

been paid although payment has been duly demanded of defendant.

WHEREFORE plaintiff prays that the defendant Texas Petroleum Company be summoned to appear and answer all and singular the matters aforesaid; that plaintiff may have judgment for the amount of its claim, as aforesaid, with interest and costs; and for such other and further relief as may be just and proper.

Dated: New York, New York  
November 23, 1973

BURLINGHAM UNDERWOOD & LORD  
*Attorneys for Plaintiff*

By ROBERT B. POHL  
A Member of the Firm  
Office & P. O. Address  
25 Broadway  
New York, New York 10004  
HAnover 2-7585



5a  
Answer

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
COMPANIA PELINEON DE NAVEGACION, :  
S.A., :  
Plaintiff, : 73 Civ. 5033 RJW  
v. : ANSWER  
TEXAS PETROLEUM COMPANY, :  
Defendant :  
-----X

The answer of Texas Petroleum Company to the complaint of Compania Pelineon De Navegacion, S.A., alleges upon information and belief as follows:

FIRST: Admits the allegations contained in article First of the complaint.

SECOND: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in article Second of the complaint.

THIRD: Denies the allegations contained in article Third of the complaint.

FOURTH: Admits that Ernesto Nieto was an employee of Texas Petroleum Company but alleges that upon boarding the CAPETAN MATHIOS he then became the borrowed servant of plaintiff herein, and denies any knowledge or information sufficient to form a belief as to each and every other allegation contained in article Fourth of the complaint.

FIFTH: Admits the allegations contained in article Fifth of the complaint.

SIXTH: Denies the allegations contained in article Sixth of the complaint.

SEVENTH: Denies the allegations contained in article Seventh of the complaint.

EIGHTH: Denies the allegations contained in article Eighth of the complaint.

NINTH: Admits demand for and nonpayment, and denies each and every other allegation contained in article Ninth of the complaint.

WHEREFORE, the defendant, Texas Petroleum Company, prays that the complaint herein be dismissed with costs, and that it may have such other and further relief as in law and justice it may be entitled to receive.

BIGHAM, ENGLAR, JONES & HOUSTON

By DONALD M. WAESCHE JR.  
A Member of the Firm  
Attorneys for Defendant  
Office & P.O. Address  
99 John Street  
New York, N.Y. 10038

## Request to Admit

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
:  
COMPANIA PELINEON DE NAVEGACION, C.H.B  
S.A., :  
Plaintiff, : 73 Civ. 5033 RJW  
- against - :  
TEXAS PETROLEUM COMPANY, : REQUEST TO ADMIT  
Defendant. :  
-----X

PLEASE TAKE NOTICE that plaintiff herein, by its attorneys, Burlingham Underwood and Lord, hereby request that defendant admit the following fact in accordance with Rule 36 of the Federal Rules of Civil Procedure:

That the S.S. CAPETAN MATHIOS was, in fact, unseaworthy as a result of her allision with the mooring buoy and chain at Tumaco on September 29, 1972, notwithstanding the seaworthy certificate issued by the American Bureau of Shipping at Tumaco immediately following the allision and that such unseaworthiness existed and continued until the vessel was repaired at Hoboken, New Jersey in March/April 1973.

PLEASE TAKE FURTHER NOTICE that being no genuine issue of fact that the S.S. CAPETAN MATHIOS was, in fact, unseaworthy as set forth above, and in the event that the defendant fails to admit such fact or denies such fact, plaintiff will, in accordance with Rule 37(c) of the Federal Rules of Civil Procedure, make application for an order requiring defendant to pay the reasonable expenses of calling the necessary witnesses including the A.D.S.



*Request to Admit*

surveyor at Tumaco; defendant's surveyor Halboth, Marine Engineers representing the vessel's builder who were brought from Sweden to supervise repairs; owner's representative residing in Greece, and any other surveyors who attended the vessel in Hoboken and have knowledge of the vessel's condition.

Dated: New York, New York

June 20, 1975

BURLINGHAM UNDERWOOD & LORD  
Attorneys for Plaintiff

By 

A Member of the Firm  
25 Broadway  
New York, New York 10004  
HANOVER 2-7585

T O : BIGHAM, ENGLAR, JONES & HOUSTON  
Attorneys for Defendant  
99 John Street  
New York, New York 10038

## Answer to Request to Admit

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
COMPANIA PELINTON DE NAVEGACION, :  
S.A., :

Plaintiff, :

- against - :

TEXAS PETROLEUM COMPANY, :

Defendant. :  
-----x

73 Civ. 5033 RJW

ANSWER TO REQUEST  
TO ADMIT

Defendant, TEXAS PETROLEUM COMPANY, by its attorneys, Bigham Englar Jones & Houston, denies the matter requested to be admitted herein by plaintiff.

As reasons for the above denial, and as reasonable grounds for same under Rules 36 and 37(c), defendant sets forth the following:

The collision between the mooring buoy and chain occurred at Tumaco, Columbia, on September 29, 1972. An American Bureau of Shipping's surveyor inspected and examined the CAPETAN MATHIOS immediately after the casualty at Tumaco. Sea trials were also held at Tumaco to see how the vessel operated after the casualty. The report of the above surveyor, dated October 3, 1972, found, recommended, and concluded as follows:

"UPON EXAMINATION FOUND

- 1.- Buoy's Chain wrap in propulsion tail shaft, one turn.
- 2.- Three propellers blades edges badly damaged. Fair water cone and upper guard missing, lower guard damaged.

RECOMMENDED

- 1.- Unwrap buoy's chain by cutting one link.
- 2.- Remove propeller and install spare, Repair and fairout blades as necessary. Balance propeller. Replace fairwater cone and install new guards.



*Answer to Request to Admit*

Item No. 1 was carried out. Item No. 2 was not carried out at this time due to lack of suitable repair facilities.

A conscientious examination was carried out to the propeller blades, propulsion tail shaft, bearing supports, stuffing box, thrust bearing, founding all items satisfactory.

Sea trials were conducted for five hours in order to check out for vibration or for any damage in the propulsion system, not vibration and not damage was found. All items were operating as normal as usual.

The vessel is considered in a satisfactory condition to proceed with her regular scheduled operation. It is further recommended that the damage be re-examined at the next regular drydocking period and dealt with to satisfaction of the attending surveyor at that time.

In the opinion of the undersigned this vessel is considered eligible to be retained with this Bureau."

In May of 1972, and prior to the above casualty, owners of the CAPETAN MATHIOS advised the charterers of the CAPETAN MATHIOS that the owner's tentative schedule for the next drydocking of the vessel was for the summer of 1973.

The captain of the vessel has testified by deposition that immediately after the casualty the vessel operated normally. The first time the vessel's captain advised her owners of anything unusual, subsequent to the casualty, was by a message dated October 23, 1972, which stated as follows:

"NOTICE OVERHEATING OF STERN TUBE SEAL  
ALSO SHAFT VIBRATIONS  
PLEASE INSTRUCT"

The reply received by the vessel the next day stated:

"REYOURTEL 23RD SUGGEST REDUCE REVOLUTIONS  
IN ORDER TO KEEP OVERHEATING AND VIBRATIONS  
TO SAFE LIMITS STOP UNABLE DRYDOCK  
PRESENTLY AS FAIRWATER CONE NOT READY YET  
ADVISE RESULTS"

The CAPETAN MATHIOS went into drydock in March/April, 1973. From the time of the casualty in late September of 1972, to the time of the latter repair or drydock period, the vessel successfully operated and performed her charter commitments, with no speed claims being made by the

11a

*Answer to Request to Admit*

time charterer, i.e. that the ship was not performing at a proper speed according to the Charter Agreement. The captain of the vessel has also testified by deposition that any overheating or vibration that was present in late October of 1972, did not become worse before the vessel went into drydock in March/April 1973.

Plaintiff did not put the vessel in drydock because of any unseaworthiness of the CAPETAN MATHIOS.

Dated: New York, New York

July 23, 1975

BIGHAM ENGLAR JONES & HOUSTON  
Attorneys for Defendant

By



A member of the firm  
99 John Street  
New York, New York 10038  
REctor 2-4646

TO:

BURLINGHAM UNDERWOOD & LORD  
Attorneys for Plaintiff  
25 Broadway  
New York, New York 10004

## Excerpts From Transcript of Proceedings

1

2 N I C H O L A S      H A T G I S, called as a witness on  
3        behalf of the Plaintiff, having been first duly  
4        sworn by the Clerk of the Court, testified as  
5        follows:

6                    COURT CLERK: Please be seated. State  
7                    your name in full, and spell your last name.

8                    THE WITNESS: Nicholas Hatgis, H-a-t-g-i-s.

9 DIRECT EXAMINATION

10 BY MR. SMITH:

11        Q        Where do you reside, Mr. Hatgis?

12        A        New York City.

13        Q        What is your occupation?

14        A        I am employed by Homeric Maritime Agencies  
15 in New York City.

16        Q        In what capacity?

17        A        I am President of the corporation.

18        Q        What is the function of Homeric Maritime Agencies?

19        A        They act as agent for a group of foreign owners,  
20 mostly domiciled in Greece.

21        Q        And what do you do for these shipowners? What  
22 function do you perform as agent?

23        A        Well, these offices handle all the matters per-  
24 taining to agency work for the vessels that do come to the  
25 United States, trying to charter them, operating them,



1

2 repairing them, after, of course, consulting with the  
3 owners and getting instructions from them.

4 Q Is one of the vessels that you service the  
5 CAPETAN MATHIOS?

6 A Yes, it is.

7 Q By whom is that owned?

8 A By Compania Pelineon De Navegacion SA.

9 Q That corporation is the Plaintiff in this case;  
10 is that correct?

11 A Yes, it is.

12 Q Now, to the best of your recollection, would you  
13 describe the events that occurred to the CAPETAN MATHIOS  
14 from September 29, 1972, and thereafter, until the vessel  
15 went into the dry dock at Hoboken in March of 1973?

16 A Well, the vessel on the 29th of September, 1972,  
17 while in the process of docking at the Tumaco Terminal  
18 was damaged during the docking operations. The first  
19 visual report about the damage was that the propeller  
20 was bent, and immediately the Captain asked for the  
21 classification surveyor representative of the American  
22 Bureau of Shipping to come and inspect the vessel to see  
23 whether the vessel was in a seaworthy condition to proceed  
24 with its voyage.

25 I believe the surveyor had to come from another

1  
2 port called Barranquilla, and he came a day later, if I am  
3 not mistaken. He examined the vessel. They went out for  
4 trials to see if there was any evident damage to the engine  
5 of the vessel by the damaged propeller, and it seems that  
6 the surveyor was satisfied that the vessel could continue  
7 operating until her next dry-docking.

8       There are many occasions vessels have damages  
9 with propeller and nothing can be done, either because of  
10 the area where the vessel is damaged or for other reasons.

11       And another part of the damage was that the vessel  
12 lost her propeller cone, which is to protect the propeller.  
13 It is a necessary part of the propeller system. Now, this  
14 cone was lost during the impact, and the owners --

15       THE COURT: Is that cone, c-o-n-e?

16       THE WITNESS: Yes, yes.

17       A     (Continuing) However, this does not actually  
18 affect the seaworthiness of the vessel. The American Bureau  
19 of Shipping Surveyor, who examined the vessel, gave them a  
20 certificate that the vessel was able to sail until such  
21 time as the vessel was ready to dry-dock again. This  
22 propeller cone was immediately ordered by the owners, I  
23 believe, from the manufacturers of the vessel in Norway.  
24 And it was a long process of getting this cone ready.

25       So the American Bureau of Shipping had no objection

1  
2 whatever to wait until the cone was ready. After the cone  
3 was ready, the owners asked through our office, our  
4 charters with Gulf Oil, to position the vessel in such a  
5 way so as to bring it to the New York area, and --

6 Q May I interrupt at this point, Mr. Hatgis. Did  
7 you receive any communications from the vessel after she  
8 left Tumaco in connection with this damage?

9 A Yes, we received some communications.

10 Q I will show you Plaintiff's Exhibit 2 and 3 and  
11 ask you if you can identify those?

12 A Yes.

13 Q Would you tell the Court what Plaintiff's Exhibit  
14 2 is. Explain what it is.

15 A This is a radiogram sent by the vessel on the  
16 23rd of -- well, I can't see, but in any case noting that  
17 they noticed overheating of the stern tube seal and also  
18 that they noticed violations, and they are asking for  
19 instructions.

20 So we passed this on to the owners of the vessel,  
21 who asked us to reply as follows:

22 "Reference your telegram 23rd, suggest  
23 reduced revolutions in order to keep overheating  
24 and vibrations to safe limits. Stop."

25 THE COURT: Would you undertake to read it?

. . . . .



1

2 A 1972?

3 Q 1972.

4 A Well, the market was very depressed in 1972.

5 Q And your charter rate with relation to that market  
6 could you make a comparison as to whether it was good or  
7 bad or what?

8 A The charter was much better than present market  
9 at the time. \$3.85 was a good rate in 1972.

10 Q Mr. Sheinbaum pointed out in his opening statement  
11 there was an off hire charter provision, is that correct?

12 A Yes.

13 Q And that meant that if the vessel was dry-docked  
14 during the period of the charter, it would go off hire;  
15 is that correct?

16 A If the charter -- yes, automatically it goes off  
17 hire.

18 Q That means when it goes in dry-dock the charter  
19 does not pay you charter hire?

20 A No, no, no.

21 Q Now, would you explain what happened after the  
22 vessel went into the yard and inspection was started on  
23 the vessel? Were you there personally?

24 A Well, yes, I was there just as an observer. I  
25 don't happen to have any engineering background, so I only

1  
2 went out on interest. We were hoping that the vessel would  
3 enter the dry dock and repair the propeller, install the  
4 cone that was already in Hoboken, New Jersey, which is a  
5 process of about, we figured about four, five, six days.  
6 It is not longer. You don't need a long period to do this  
7 type of work, and as they took off the propeller they were  
8 checking the main engine and for clearance and so forth,  
9 they noticed the damage one day, and they opened further,  
10 and noticed more damage, and the result was we stayed  
11 twenty-five days to repair the main engine, which damage  
12 was by the experts attributed to the impact of the propeller  
13 at Tumaco.

14 Q Now, you received a seaworthy certificate from  
15 the ABs surveyor at Tumaco immediately following the  
16 incident; isn't that correct?

17 A Yes, we did.

18 Q Now, what is the extent of damage which is shown  
19 on that survey?

20 MR. SMITH: Your Honor, this is Plaintiff's  
21 Exhibit 1.

22 THE COURT: This is the one that you haven't  
23 seen?

24 MR. SHEINBAUM: No, that is the one that I  
25 have seen.



1  
2           A     This describes the visual observations of the  
3 propeller, and the notice that, of course, three blades  
4 were badly damaged, and the fair water cone was missing.

5           Q     Is there any notation of any other damage that  
6 was observed at that time?

7           A     It doesn't show it.

8           Q     So at the time that the vessel entered the dry  
9 dock in Hoboken in March of 1972, you expected it was only  
10 going to take five or six days to repair that damage to  
11 propeller and cone.

12          A     Yes.

13          Q     The only damage that you knew about was the damage  
14 that was on the propeller; is that correct?

15          A     Yes.

16          Q     Now, what happens, from your experience in ship  
17 operation, when you get a damaged propeller such as this  
18 one, the way it has been damaged with three blades?

19          A     Well, it depends, of course, how many blades are  
20 damaged and whether are -- now, technically, I cannot give  
21 you a technical answer.

22          Q     You mentioned from your point of view as a ship  
23 operator having experienced this on other occasions.

24          A     If you have four blades damaged equally, it  
25 doesn't affect the performance of the vessel because there

1  
2 is no vibration, and the propeller moves in the same way  
3 without any other pressures. But we found after having  
4 the trials with the American Bureau of Surveyor Board that  
5 the vessel was operating normally, so that decision -- that  
6 is the reason we were given the seaworthy certificate.

7 Q Then at some later date in October, was it,  
8 according to the Telex you received from the Master of the  
9 vessel, that there was some vibration --

10 A Yes.

11 Q -- and overheating, is that consistent with the  
12 damages that you found on the propeller or as reported to  
13 you on the propeller?

14 A I don't understand the question.

15 Q Well, I will rephrase the question. Is the damage  
16 which is set forth in Exhibit 1, the survey report, consistent  
17 with the vibration that was observed by the shipboard per-  
18 sonnel in the operation?

19 A Yes, I would say so. And that is why they gave  
20 instructions to reduce the speed of the vessel, to reduce  
21 the output of the engine.

22 Q The RPMs, is that correct?

23 A Yes.

24 Q Revolutions per minute?

25 A Yes.

1

2 Q Now, describe what happened in the charter market  
3 generally from the time the vessel left the shipyard in  
4 April, 1973, until November 25, 1973. What was the general  
5 trend?

6 A Well, there was an unprecedented boom in the  
7 tanker market at the time, and every day we would hear  
8 business conducted at high rates. There was never a period  
9 like that in recent years where the market was as healthy  
10 and vigorous as the one we experienced at that time.

11 Q Did you bring with you today some market reports?

12 A Yes, I did.

13 Q Would you get those market reports out, please.

14 MR. SMITH: Your Honor, the market reports  
15 are Exhibit 13, which has not been admitted in  
16 evidence. Before I examine him on these, I  
17 would like to give my adversary an opportunity  
18 to look at them. I think he has seen them.

19 MR. SHEINBAUM: It seems probable to me  
20 that we will probably have a break before I go  
21 through my examination, and it would be better  
22 for the Court's time if I looked at it after the  
23 witness' testifying.

24 THE COURT: Fine.

25 MR. SMITH: Your Honor, this file has

. . . . .



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BY MR. SMITH:

Q Now, you have in your file some market reports about the time the charterer exercised that option. Would you tell the Court what the market was for a vessel similar to the CAPETAN MATHIOS?

A What is that now?

MR. SHEINBAUM: Is this voyage market or time market or what?

MR. SMITH: This is the market for the vessel. We will go into it.

A It is a voyage --

MR. SMITH: We will go into it as we examine the witness.

BY MR. SMITH:

Q First of all, you have two different type charters; is that correct, voyage charters and time charters.

A Yes.

Q All right, now, with respect to the document that you are looking at now, does that report both time charters and voyage charters?

A Most of the reports are on voyage charters. Very few on time business.

Q Is there a system called "world scale" which is used for reporting the charters that are fixed in the

1

2 market?

3

A New York World Scale is the method, the scale  
4 used as a basis to conclude charters in the tanker market.

5

Q It is the basis for determining a rate for that  
6 charter; isn't that correct?

7

A Well, briefly, to describe the method, World  
8 Scale is a publication that has listings of rates, assumed  
9 rates for basic trades from New York to -- from Aruba to  
10 New York. It is so many dollars, so when you negotiate  
11 a charter, you negotiate what percentage over that base  
12 trade your fixture will be.

13

Q The base is called World Scale 100?

14

A 100 is the base.

15

Q World Scale 300 would be 300 percent over the  
16 base rate; is that correct?

17

A It is three times the base rate.

18

Q All right, now, what was the World Scale rate for  
19 a voyage charter for a vessel similar to the CAPETAN  
20 MATHIOS for a voyage from the Caribbean to the East Coast  
21 of North America in June of 1973?

22

A Well, it was in the area of 320, 330 percent,  
23 330 percent.

24

Q All right, now, is it possible to reduce time  
25 charter rate to an equivalent World Scale rate?

*Nicholas Hatgis—for Plaintiff—Direct*

1 A Yes, of course.

2 Q All right, now, have you done that with respect  
3 to the CAPETAN MATHIOS time charter, which was in existence  
4 on the vessel at the moment Gulf exercised its option?  
5

6 A I have not. Well, when we --

7 Q I will show you an exhibit and perhaps that will  
8 refresh your recollection.

9 MR. SMITH: I am handing the witness Exhibit  
10 14, Your Honor, so he can refresh his recollection.

11 A Well, according to these calculations --

12 Q Who made those calculations, first of all?

13 A I made these long ago.

14 Q Approximately when did you make them?

15 A It would have been around June or May of 1973.

16 Q And for what purpose were those calculations  
17 made?

18 A Well, these calculations were made something  
19 like projections which I sent over to the owners describing  
20 what the various conditions of the charter market were and  
21 the profit equivalent at various World Scale levels and  
22 some time charter equivalent, just to give them an idea  
23 of the market at that time and what they could expect if  
24 they were to negotiate any further business with the vessel.

25 Q All right, now, from those have you been able to



1

2 determine what the equivalent World Scale rate for the  
3 CAPETAN MATHIOS would be?

4

A Well, the World Scale 175, it comes to \$3.72,  
5 which is thirteen cents less than \$3.85 that the vessel was  
6 fixed at. So I would say it would be about 180.

7

Q So the Gulf Oil Corporation charter, which the  
8 vessel was operating on at the time of the casualty, was  
9 equivalent to about World Scale 180; is that correct?

10

A About that, yes.

11

Q Now, did there come a time when a decision had  
12 to be made with respect to whether the vessel would continue  
13 on time charter or whether the vessel would be put on voyage  
14 charter?

15

A At that time there were negotiations between the  
16 owners and Gulf Oil about extending the vessel to Gulf Oil,  
17 and the owners decided not to extend and to remain in the  
18 spot market.

19

Q Did you participate in negotiations with Gulf  
20 Oil Corporation?

21

A Through brokers, yes.

22

Q Did you recommend the owners to take a course of  
23 action with respect to whether they should go into the  
24 spot market or voyage market or the time charter market?

25

A I was inclined to advise them to remain in the

1

2 spot market.

3

4 Q To stay in the spot market on termination of the  
5 Gulf Oil charter. And what decision did they make ultimately?

6

7 A Not to enter into long period contracts.

8

9 Q In other words, they rejected Gulf's negotiations  
10 for a further extension of the charter party; is that correct?

11

12 A Yes.

13

14 Q Now, would you look at your market reports and  
15 describe to the Court what happened to the market between  
16 July 1, 1973, and October 15, approximately, 1973?

17

18 A I am sorry. I would like to make a correction.  
19 I misread. Now, here, the equivalent of our time charter,  
20 it would not have been \$3.72. The equivalent at 180, it  
21 was much lower.

22

23 The \$3.72 I indicate here is the rate that  
24 175 -- it is not the equivalent time charter rate. I would  
25 have to go back to memory, and the rate was about 120.

26

27 Q World Scale 120?

28

29 A 120, yes.

30

31 Q Now, what happened to the charter market between  
32 July 1, 1973 and October 15, 1973?

33

34 A Well, it maintained a very, very strong base.

35

36 Q From your records in World Scale terms for a  
37 vessel the size of the CAPETAN MATHIOS, what happened to the

. . . . .



1

2 she sailed Balboa on the 29th of October.

3

Q Now, Mr. Hatgis, you are going to have to interpret this for the Court a little bit because it involves chartering practice. It is stipulated by the parties that the vessel would have been returned to owner on October 30 had the charterer not extended the charter by reason of this casualty.

9

When would the vessel have been delivered back to you as the owner, according to your records there on the movements, if the casualty had not occurred and the charter had not been extended?

13

A She completed her discharging operations at San Juan on the 25th of October. Now, if San Juan is considered to be the Caribbean area, they were obliged to redeliver the ship to us in the Caribbean, now, at the port of our choice. So even if they don't consider San Juan as Caribbean, and they want to go further down to Aruba -- let's say it is about two days from San Juan to Aruba, so the latest would have been July, October 27th.

21

Q So, the vessel should have been delivered in a normal course to you at about October 27, '973; is that correct?

24

A Yes.

25

Q Now, you recall that about October 6, 1973 --

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13 B. MR. SMITH:

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MR. SMITH: We have an exhibit here, which Mr. Sheinbaum will accommodate me on. Do we have a copy of it? It is a Defendant's exhibit.

(Off the record.)

MR. SMITH: Your Honor, this is a sequence of reported events at the beginning of the Arab-Israeli War, facts that were generally reported in newspapers, and between counsel we have agreed that it is a fair representation of the events as they occurred from then on in the course of the problem we have here.

Q Now, you may refresh your recollection from this, if you like.

Now, if the vessel were going to be redelivered to you in the Caribbean, according to your records there, between the 25th of October and the 27th of October under the circumstances that existed in October of 1973, when would you have started negotiating a voyage charter for the CAPETAN MATHIOS?

A The beginning of October.

Q Beginning of October. Now, that would be a voyage charter; is that correct?

A Voyage charter.

1

2

Q And would you refer to your market reports as

3

to what the market was for a vessel the size of the

4

CAPETAN MATHIOS in the Caribbean-East Coast-North Atlantic

5

trade?

6

A Well, the World Scale equivalent for October

7

in the Caribbean market was in levels of fixtures 354,

8

410, 390, various --

9

Q It varies from day to day as to what it is. It

10

was around 400; is that correct?

11

A Yes.

12

Q Now, from your calculation, what does World

13

Scale 400 mean in terms of dollars with a profit to the

14

owner of the CAPETAN MATHIOS? I should say income, not

15

profit.

16

A Income?

17

Q Yes. What is the nearest you have to World

18

Scale 400?

19

A I show you the profit.

20

Q What is the profit per day?

21

A \$15,400.

22

Q All right, now, have you ever had any difficulty

23

chartering the CAPETAN MATHIOS on the charter market since

24

coming off the Gulf time charter?

25

A No, no. I mean everybody has difficulty chartering



1

2 when the market was --

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THE COURT: Please don't turn that way. It is hard to hear you. Your voice is soft. I would like you to speak a little louder, please.

A (Continuing) We never had any difficulties chartering in the open market any of our vessels.

Q Now, with respect to the time period between late October and November 25th, how many voyages could the CAPETAN MATHIOS have made, Caribbean-East Coast North America during that time?

A Two voyages.

Q Now, did you at my request from your calculation determine what the average rate during that period would be for the CAPETAN MATHIOS for those two voyages that you could make?

MR. SHEINBAUM: Excuse me, what period was that? Would you help me out a little?

MR. SMITH: Between October 25th and November 25th.

BY MR. SMITH:

Q Now, considering the fact that the vessel was going to be redelivered to you some time between October 25th and October 27th and negotiations taking place early in October as you testified, what would the average rate

1

2 be that you get for the CAPETAN MATHIOS in your opinion?

3

A For these two voyages?

4

Q For these two voyages.

5

A Around 375.

6

Q Did you calculate for me at 375 what the income

7

of the vessel would have been for that period?

8

A Well, 375, the daily profit is \$14,228.

9

Q Do you also have the gross income there?

10

A Gross profit?

11

Q Gross income.

12

A Gross income.

13

Q What was the gross charter hire at 375 for two

14

voyages, World Scale 375?

15

A The gross hire for the two voyages would have

16

been about \$232,000 a voyage, based on the voyage from

17

Puerto La Cruz to Philadelphia, taking as a basis that

18

voyage.

19

But the profit would not be that. The profit

20

would be less the operating expenses.

21

Q What would the profit be?

22

A The profit would be, the daily profit for such

23

a voyage would be \$14,228.

24

Q And what would it be for twenty-five days?

25

THE COURT: When you speak of profit, I

1  
2 assume you mean the net profit.

3 THE WITNESS: The net profit, yes, sir.

4 It is \$358,000.

5 Q Now, the vessel was actually employed by Gulf  
6 Oil on the time charter during that period, though, wasn't  
7 it?

8 A Yes.

9 Q And we have here two exhibits marked Plaintiff's  
10 21 and 22, which is the off hire period. Would you  
11 calculate for the Court with those two exhibits what the  
12 off hire was for the twenty-five day period. You might  
13 have to do it right on one of the copies here.

14 A Well, we had an off hire of \$8,548.75 for the  
15 two days we lost at Tumaco and another \$78,000 for the  
16 delay at Hoboken.

17 MR. SMITH: Your Honor, I will just stop  
18 the witness. We have stipulated the amount  
19 as being \$97,077.26, so we will save the  
20 calculation.

21 THE COURT: Yes, I was having a little  
22 difficulty getting these figures altogether.  
23 So as long as that has been computed and  
24 stipulated, there is no use in my trying to  
25 follow it that closely.

. . . . .



1

2 BY MR. SMITH:

3

Q Now, getting back to your profit, that would have  
4 been your net profit on those two voyages at World Scale  
5 375; is that correct, \$358,000?

6

A Yes.

7

Q You actually did receive for the use on this  
8 ship \$97,077.26; is that correct?

9

A Yes.

10

Q All right, how much of that \$97,077.26 is operating  
11 expense?

12

A Well, I made a calculation. We took as a base  
13 the daily expenses at that time for the vessel, \$1,600 per  
14 day, so the twenty-five days --

15

Q All right, would you make a calculation again,  
16 please.

17

A Twenty-five days point something, wasn't it?

18

Q Well, do you have anything that will refresh  
19 your recollection as to what it was?

20

MR. SHEINBAUM: May I suggest --

21

THE COURT: If the data is going to be  
22 developed from documents and the like, why not  
23 pass this for the time being, and get the precise  
24 figures so we won't spend so much time looking  
25 through papers and files.

1

2 BY MR. SMITH:

3 Q Are you talking about the time?

4 A No, the profit would have been, out of the ninety-  
5 seven, the profit would have been \$54,000.

6 Q \$54,000?

7 A Yes.

8 THE COURT: You are going to have to clarify  
9 all this for me later. There have been too many  
10 figures.

11 MR. SMITH: We will go back over it again.

12 Your Honor.

13 BY MR. SMITH:

14 Q You have calculated the World Scale rate for  
15 two voyages at World Scale 375, and that figure was?

16 A \$358,000.

17 THE COURT: \$54,000, I got that. That was  
18 not the net profit?19 THE WITNESS: That would have been the net  
20 profit.21 Q All right, now, you would have received for the  
22 period of 25.1279 days, I believe it was, \$97,077.26; is  
23 that correct?

24 A We did receive that.

25 Q You have just made the calculation that you would

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1  
2 day claim includes the delay to Tumaco earlier.

3 THE COURT: You have gotten me confused  
4 about that.

5 MR. SHEINBAUM: I don't think there is any  
6 difference of opinion on that as between myself  
7 and Mr. Smith.

8 THE COURT: You will bring these matters out  
9 sharply when you present your final argument.

10 MR. SMITH: The entire off-hire period for  
11 Tumaco and repair period is 25.1279 days.

12 Now, what Mr. Hatgis has just testified to  
13 is that before the vessel was in they contem-  
14 plated it would only take five days to jump the  
15 propeller off, get it repaired and put it back  
16 on. And instead of that, it took something like  
17 twenty-two, twenty-three days.

18 THE COURT: For the whole job?

19 MR. SMITH: For the whole job.

20 Now, during that time, Your Honor, the owner  
21 did some minor repairs for his own account, and  
22 that was the exhibit we have just handed up to  
23 you for \$3,000.

24 THE COURT: Yes.

25 MR. SMITH: \$3,500, \$3,535.

1 THE COURT: You couldn't do very much repair-  
2 ing for that.

3 MR. SHEINBAUM: Your Honor, if we have  
4 Exhibit 23 and 24, I am sure that the witness can  
5 identify it and we will hand them up to the Court.  
6

7 THE WITNESS: This is the report by the  
8 American Bureau of Shipping pertaining to the  
9 repairs carried out at Hoboken.

10 MR. SMITH: I just handed the witness Exhibit  
11 24, Your Honor.

12 THE WITNESS: Exhibit 24 is the original  
13 charter party with Gulf Oil dated September 19,  
14 1969, together with Addendum No. 1 dated May 28,  
15 1971, pertaining to an extension of the original  
16 charter party for a period of two years.

17 MR. SMITH: We have here Exhibit 11, Your  
18 Honor, which the witness would identify for the  
19 Court.

20 THE WITNESS: This is the report of the  
21 underwriters' surveyor pertaining to the damages  
22 and so forth, the repairs.

23 BY MR. SMITH:

24 Q Would you go to the last page or the next to the  
25 last page and see if there is any notation with respect to

. . . . .

1

2 BY MR. SMITH:

3

Q Here is Exhibit 15. Would you tell the Court  
4 what that is, please?

5

A It is a charter party dated November 16, 1973,  
6 between the owners of the CAPETON MATHIOS and charterer  
7 called "Southern Terminal & Transfer Company." This  
8 charter pertains to the first fixture after the redelivery  
9 of the vessel from Gulf Oil.

10

Q And when was the vessel redelivered to the  
11 owner from Gulf Oil?

12

A She was delivered in Aruba on November 24, 2330  
13 hours.

14

Q So that you made this fixture approximately how  
15 long before the vessel came off hire?

16

A That was dated the 16th, so it was eight days,  
17 eight days.

18

Q Is that the day you negotiated, November 16th?

19

A The day that all the terms were agreed upon.

20

Q When did you start negotiating that charter?

21

A I am not -- I do not remember, but normally it  
22 would have been the same day in a spot market.

23

Q The same day as the date on the charter party?

24

A Most likely. I cannot answer from --

25

MR. SMITH: Your Honor, we have Exhibit 29,

. . . . .



1  
2 And D-1 is the excerpt from the Lloyd's  
3 Registry of Shipping, giving the details and  
4 characteristics of five vessels, all tankers,  
5 including the CAPETAN MATHIOS, all of which  
6 vessels are referred to in Exhibit D under  
7 Fafalios Shipping, S.A., Fafalios, Limited,  
8 and Homeric Maritime Agencies, Inc.

9 THE COURT: In due time, you may point out  
10 the particular portions of this that you wish  
11 to call my attention to, I take it.

12 MR. SHEINBAUM: Yes, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. SHEINBAUM

15 Q Mr. Hatgis, referring to Exhibit D, which is the  
16 copy of the Greek Shipping Directory, would you tell the  
17 Court what Fafalios Shipping, what Fafalios Limited is and  
18 what Homeric Agencies, Inc. is?

19 A Fafalios Shipping is the office in Piraeus which  
20 handles the work of the vessels listed below. The same  
21 thing happens to be true for Fafalios, Limited, which  
22 handles the same vessels in London as agents, and Homeric  
23 Maritime also falls in the same category.

24 Q Is it true that Fafalios, Limited, and Fafalios,  
25 S.A. are Managers of all those vessels that are listed?

1

2 A I think Fafalios Shipping are the managers.

3 Q And what does the manager do?

4 A Instructs the agents as to the course of events  
5 to be followed as far as chartering the ships, managing the  
6 ships, repairing the ships.

7 Q And in that group of vessels, are there five  
8 tankers named, to wit, the CAPETAN MATHIOS, the CAPTAIN  
9 LUCAS, the ANGELA F, the MARIONGA, and the NEATYHI.

10 Are these all tankers listed as being managed by  
11 Fafalios --

12 A Shipping.

13 Q -- Shipping, and represented by Homeric as well  
14 and Fafalios, Limited?

15 A Correct

16 Q And all those are tankers?

17 A The five you mentioned were tankers, yes.

18 Q Are they all approximately the same kind of  
19 tankers in terms of being relatively small as tankers go  
20 today, what we call a handy tanker?

21 A Well, handy tankers at one time were in the 20,000  
22 ton category, and at the same time the twenty-five or the  
23 30,000 tons were super tankers. Some of these tankers are  
24 different inasmuch as they are turbine ships. The others  
25 are diesel ships. They are not exactly the same.

1  
2 Q Could you tell the Court the approximate tonnage  
3 that the tankers I mentioned could carry?

4 A Each, individually?

5 Q Yes.

6 A Well, the ANGELA F, if I am not mistaken, she  
7 could carry about 24,000.

8 Q That is long tons of cargo?

9 A Long tons of cargo. The CAPETAN MATHIOS could  
10 carry about 29,000 tons of cargo. The MARIONGA could carry  
11 about eighteen and a half thousand tons of cargo, and the  
12 NEATYHI about nineteen thousand and a half.

13 Q Now, would you say that one of the functions of  
14 Fafalios for the ships listed in the Greek Shipping Directory  
15 would be to obtain or arrange for the obtaining of insurance  
16 for the vessels they manage?

17 A Yes, of course.

18 Q I hand you a document, and could you, if you  
19 can, identify that? It has been previously marked as  
20 Exhibit N, Your Honor.

21 A Yes.

22 THE COURT: What is it?

23 THE WITNESS: This is a cover note by  
24 some insurance brokers called Hobbs Savill & Co.,  
25 Ltd., London, advising that they have effected



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insurance on certain vessels.

Q Now, do those vessels include the CAPETAN MATHIOS  
and the CAPETAN LUCAS?

A Yes, they do.

Q And does this cover note cover the time of the  
casualty in question; namely, that insurance was being  
placed for the CAPETAN MATHIOS and the CAPTEAN LUCAS for  
the period of September, '72?

A No. 4 is for twelve months. That is the CAPETAN  
MATHIOS, commencing noon, 30 April, 1972, and ending 30th  
of April, 1973.

Q So the answer is yes?

A Yes.

Q Now, does the document also state that the named  
vessels, naming six of them, insurance has been placed as  
part of a fleet of fifteen vessels?

A It says so, yes.

Q Do you know who the officers of Fafalios Shipping,  
S.A. are?

A I do not know offhand.

Q Do you know who the shareholders of Fafalios  
Shipping are?

THE COURT: The spelling of that name is

F-a-f-a-l-i-o-s.

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BY MR. SHEINBAUM:

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Q And do I understand correctly that you do not know who the officers or directors or shareholders would be of Fafalios Shipping, S.A., and Fafalios Limited?

A I do not.

Q Who were the officers besides yourself as President of Homeric Maritime Agencies, Inc.?

A Captain Garis, G-a-r-i-s, who is in our office. And then there is a Mr. S. C. Fafalios, who is in Greece.

Q What position does Mr. Fafalios, C.D., hold?

A Vice-President.

Q And who are the shareholders of Homeric Maritime Agencies, Inc.?

A Mr. C.D. Fafalios and Mr. P.S. Fafalios.

Q Do any of the Fafalios individuals that you have just mentioned own shares in any tankers managed by Fafalios?

A I do not know for a fact.

Q Are you aware that the ownership or shareholders of the stock of the CAPETAN MATHIOS, as of the time of the casualty in this case, were the same as the shareholders of the owners of the CAPTEAN LUCAS?

A I don't know.

Q Are you personally charged with any responsibility in the prosecution of the claim that is being asserted in this

1  
2 case? Are you to oversee the prosecution of that claim  
3 in this country?

4 A My responsibility?

5 Q Not in terms of liability, if you will, but is  
6 that a duty that you are fulfilling? ^

7 A Well, part of my duty, of course.

8 Q And you are representing the parties interested  
9 in the CAPETAN MATHIOS in doing so; is that correct?

10 A Yes.

11 Q And where do your instructions come from?

12 A From either London or Piraeus.

13 Q Do you, yourself, hold any shares in any corporation  
14 owning any of the vessels listed in the Greek Shipping  
15 Directory under Homeric Maritime Agencies?

16 A No.

17 Q Do I understand correctly that your position  
18 is one of reporting the market conditions in New York, and  
19 the decision-making process is carried out somewhere else?

20 A Well, of course.

21 Q And do you know where the decisions are made, or  
22 are you simply advised of the decisions from London?

23 A I am advised from London.

24 Q So you, personally, cannot testify as to what  
25 considerations are made from time to time as to whether a



1  
2 time charter is accepted or whether the vessel is going to  
3 go to the spot market or whatever; is that correct?

4 A Of course, I can only make recommendations because  
5 I am paid to follow the market and give my opinion. But as  
6 far as decision-making, I cannot assume that responsibility.

7 Q Do you recall your testimony in this case in New  
8 York? You gave your deposition on 25 March 1975?

9 A Yes.

10 Q You recall that at Page 32 of the deposition,  
11 referring to decisions on voyage of time charters, and the  
12 question of whether to accept certain things.

13 "Question: Who would make the decisions?

14 "Answer: I have no idea. I get my instruc-  
15 tions, or Homeric does, from Fafalios, Limited.

16 "Question: As Homeric, do you make recom-  
17 mendations when you report these offers, or do  
18 you simply report?

19 "Answer: We report the market conditions  
20 prevailing locally, and on the basis of our  
21 reports and the reports they get in London,  
22 they crystallize their thoughts and ideas and  
23 give the necessary instructions.

24 "Question: You would simply report the  
25 questions without a recommendation one way or the

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other?

"Answer: We reported."

Now, is it your testimony that you report the conditions, or is it your testimony that you make recommendations?

A Well, by reporting you can always give an opinion, express an opinion of what -- that is why a broker that fixes a vessel can give you an opinion.

THE COURT: The question is what do you do with respect of these matters.

THE WITNESS: Well --

THE COURT: Not what others do, what you do.

THE WITNESS: It doesn't absolutely mean that I have to give recommendations, but on many occasions, I might offer my own opinion. I am here on the spot, and I can see things differently than what they can see in London, and I can give them the benefit of my being here and following the market.

THE COURT: In other words, sometimes you do, and sometimes you don't give your opinion.

THE WITNESS: Yes.

THE COURT: All right, go ahead.

. . . . .



1

2 BY MR. SHEINBAUM:

3 Q So the ship goes back and forth, can go back and  
4 forth between time charters and voyage charters?

5 A Yes.

6 Q Is that correct?

7 A Yes.

8 Q Depending upon the market conditions?

9 A Yes, that is the essence of tramp shipping.

10 Q And the question of whether you would go to time  
11 charter or a voyage charter would depend upon the exact  
12 time and your evaluation when you made the decision as to  
13 whether to go to time or to go to voyage as a vessel owner?

14 A When you say "your evaluation" you mean the owner's  
15 evaluation?

16 Q Yes.

17 A Yes, definitely.

18 Q So that if you would let me --

19 THE COURT: Why don't you se the word  
20 "owner" if you want to talk about owner.

21 MR. SHEINBAUM: Yes, Your Honor, I will.

22 BY MR. SHEINBAUM:

23 Q When you made the decision, when you personally  
24 evaluated the question whether the CAPETAN MATHIOS should go  
25 to voyage charter or time charter in June of 1973, was that



1  
2 before Gulf had exercised its option to extend the charter?

3 A Well, again we go back to history now, and I  
4 have to recollect my thoughts.

5 THE COURT: Take all the time you want to.  
6 Think about it, and don't talk until you decide  
7 when it was.

8 THE WITNESS: To think without records or --

9 MR. SHEINBAUM: Well, let's try and find  
10 the Telex extending, which is Exhibit 16, Your  
11 Honor, and maybe that will assist Mr. Hatgis.

12 MR. SMITH: Dated June 28th, I think.

13 BY MR. SHEINBAUM:

14 Q Now, if I understand correctly, that was the first  
15 notification you have that the charterer, the time charterer  
16 would exercise its option to extend the time charter for  
17 all the off-hire time, which was accumulated in the time  
18 charter; is that correct?

19 A Yes.

20 Q And that would be June 28th?

21 A Yes.

22 Q Now, were the figures you made based upon getting  
23 the charter, getting the vessel back without any extension  
24 or with an extension?

25 A Well, these figures, I don't remember offhand to

1  
2 give you an answer to this question. But one month more or  
3 less would not have affected the figures that you mentioned  
4 before.

5 Q Well, did you assume that Gulf was going to  
6 exercise its option before Gulf exercised its option?

7 A We always assume, we never know until they let us  
8 know and they advise us officially. They have thirty days  
9 before the termination of the contract to advise us.

10 Q So given the nature and the time charter party  
11 agreement that the vessel was operating under, the question  
12 of whether the vessel would be extended in its service  
13 under that charter and the question of whether you would  
14 not have the vessel for, let's say, the last twenty-five  
15 days of the extension period was always a matter of  
16 speculation up until the time that Gulf actually exercised  
17 its option; is that correct?

18 A No.

19 Q And you didn't know about it at the time of the  
20 casualty, and in fact, it was completely under the control  
21 of Gulf Oil Corporation?

22 A You always expect that they might decide, but  
23 everything depends on their way of thinking at the time.

24 Q Considerations that you know nothing about could  
25 possibly affect it?



1

2 A Of course.

3 Internally in Gulf Oil Corporation.

4 Q Now, referring to the time charter itself, do I  
5 understand correctly that there was approximately sixty-five  
6 days of off hire claimed by Gulf Oil Corporation that was to  
7 be tacked on to the charter period?

8 A I don't recall offhand. You have to --

9 Q All right.

10 MR. SHEINBAUM: Exhibit I, Your Honor.

11 THE COURT: Thank you.

12 A Yes.

13 Q This is what Gulf claimed; is that correct?

14 A Yes.

15 Q Now, when a vessel owner receives such a claim,  
16 the vessel owner has to evaluate it; is that correct?

17 A Yes.

18 Q And the vessel owner has to make a decision as to  
19 whether the off hire claimed is, for example, properly  
20 off hire under the charter?

21 A Yes.

22 Q And there can be disputes, and there very often  
23 are disputes in the business between the charterer and the  
24 owner as to what is properly off hire?

25 A Of course.



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Q And that is the subject of negotiation between the vessel owner and the charterer?

A Yes.

Q Is that right. So that in this case, for example, the length of the extension period that was added to the charter with Gulf Oil Corporation was dependent upon what Gulf Oil Corporation claimed is off hire in its opinion, what the vessel owner claimed or believed was proper off hire in its opinion, and what the parties finally agreed upon, is that correct?

A Yes.

Q And those decisions depended upon, determined what the off hire tacked onto the end of the charter was going to be?

A Yes.

Q Now, in fact, of the total approximately sixty-five days of the extension, only twenty-five days was the result of the Tumaco casualty; is that correct?

A Yes.

Q And as of the time of the Tumaco casualty and as of the time of the repair period of the vessel, which was six months later than the casualty, it was entirely possible, was it not, that there would be additional off hire, even after the repair, that would in addition be added onto the

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2 time charter by Gulf and the vessel owner, if they agree;  
3 is that correct?

4

A You say this as a hypothetical? Of course.

5

Q Yes, yes, so that what was going to be added on  
6 to the time charter was dependent on what sort of off hire  
7 might have taken place before the Tumaco casualty, what  
8 sort of off hire would take place between the Tumaco  
9 casualty and the repair period six months later, and what  
10 sort of off hire was going to take place or could take  
11 place between the repair period and the end of the charter;  
12 is that correct?

13

A Yes.

14

Q And what you are claiming, or what the Plaintiff  
15 is claiming for in this case, the owner of the vessel, is  
16 an element of profit in the last twenty-five days of the  
17 period ultimately agreed upon to be proper off hire between  
18 the vessel owner and the Gulf Oil Corporation; is that  
19 correct?

20

A That was the period of the last off hire that  
21 we had with Gulf Oil.

22

Q Yes. Is that correct?

22

A The last period.

24

Q The last twenty-five days of the extension.

25

A The last off hire that we had with Gulf Oil, those

. . . . .



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2 February of '73.

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Q Now, would Exhibit I, indicating the one day  
4 eleven hour, fifty minute time, represent the result of  
5 the negotiations and compromise?

6

A This is the full claim, which consequently was  
7 used to figure half, so this one day, the actual off hire  
8 was half of that.

9

Q The actual off hire was half of the one day,  
10 eleven hour, fifty minute figure?

11

A That's right.

12

Q Leaving the question of charters for a moment,  
13 Mr. Hatgis, as to the Tumaco incident, do I understand  
14 correctly that your instructions were to see whether the  
15 vessel was seaworthy, and if it was seaworthy to obtain a  
16 seaworthiness certificate from ABS, so the vessel could  
17 continue to operate; is that correct?

18

A Well, this is a function that the Masters ordinarily  
19 do, and we made sure when the Master telephoned us about  
20 the accident, we made sure that he did arrange to have an  
21 ABS surveyor to go on board and give him the seaworthiness  
22 certificate.

23

Q And the ABS surveyor recommended that the vessel  
24 be, that the damage be repaired at the next regular dry-dock  
25 period of the vessel.



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A I believe that is what the report says.

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Q Did the vessel owners follow that recommendation?

4

A Yes. Would you repeat the question, please?

5

Q Did the vessel owners follow that recommendation?

6

A No, the previous statement you made.

7

MR. SHEINBAUM: Would the reporter please

8

read that?

9

(Whereupon, the requested portion of the

10

record was read.)

11

A Yes, the vessel owners prudently dry-docked

12

before, as soon as the cone was available, they

13

were interested to make sure that the performance and the

14

condition of the vessel was not damaged by the damaged

15

propeller. They didn't wait until the next dry-docking,

16

even though they had the seaworthiness certificate by ABS

17

to wait another year and a half.

18

Q Isn't it true from the time of the casualty on

19

September 29th to the time of the repair period in April

20

of 1973 that the vessel performed properly her charter

21

and proceeded at her normal speed, and that there were no

22

time or speed claims under the charter for that period?

23

A With the exception of the messages that were

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presented as evidence previously about the vessel ex-

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periencing some vibration, which was eventually corrected,

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2       A     As far as I recall there were no c'laims. There  
3 were previously, I believe, but not for our time period,  
4 but --

5       Q     Now, let's get down to the propeller cone. Do  
6 you recall when it arrived in the United States?

7       A     No.

8       Q     I show you two documents that have not been  
9 marked. They are part of the documents that were previously  
10 gone over by both counsel and were, in fact, presented to me  
11 as part of the claim for hull damage, and they relate to  
12 the cone.

13           Now, I show you one document and ask you if this  
14 is the invoice covering the cone?

15       A     Yes. No, this is -- yes, the invoice.

16       Q     And what is the date of that invoice?

17       A     November 27, 1972.

18           MR. SHEINBAUM: And may this be marked as  
19 Defendant's Exhibit T, please?

20           (An invoice dated November 27, 1972 was  
21 marked as Defendant's Exhibit T, as of this  
22 date.)

23 BY MR. SHEINBAUM:

24       Q     Now, I show you another document that is a  
25 Norwegian-American line invoice, apparently, and ask you



1  
2 if that is the freight invoice for the cone?

3 A Yes, it is.

4 Q Now, when does that invoice indicate the cone  
5 was to arrive?

6 A On December 26, 1972.

7 Q Do you recall if it was delayed?

8 A I don't recall.

9 MR. SHEINBAUM: Would the reporter mark this  
10 as Exhibit U, please.

11 (Whereupon, a Norwegian-American line  
12 invoice was marked as Defendant's Exhibit U,  
13 by the Court Clerk.)

14 MR. SHEINBAUM: I offer them both in evidence,  
15 Your Honor.

16 THE COURT: Admitted.

17 COURT CLERK: Defendant's Exhibit T and U  
18 received in evidence.

19 (Whereupon, Defendant's Exhibits T and U  
20 were received in evidence.)

21 BY MR. SHEINBAUM:

22 Q Now, isn't it true that the question of when  
23 the vessel was going to go in to get the cone put on and  
24 have the propeller repaired was determined as between Gulf  
25 Oil Corporation as charterer and the vessel owner to suit

1

2 their mutual convenience?

3

A Right.

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THE COURT: When you come to a subject break, so that we don't have to back up and retrace our steps when we resume, we will recess for lunch.

8

MR. SHEINBAUM: Thank you, Your Honor.

9

BY MR. SHEINBAUM:

10

Q Now, do you recall receiving a message from Gulf Oil Corporation which read, in part, as follows?

11

I will read it, Your Honor.

12

THE COURT: Yes.

13

Q This is dated September 29, 1972, which is the date of the casualty.

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"This will put owners on notice that vessel CAPETAN MATHIOS considered off hire until able to resume operations in seaworthy condition stop Will expect advice soonest in order that proper replacement tonnage be acquired for scheduled off-take stop As previously discussed utilize all phone numbers given in order that we have complete report quickest."

Now, did you receive that message?

A Yes, we did.



1

Q Which has been marked Defendant's Exhibit M?

2

A Yes.

3

4

Q Now, did you, on behalf of the owners, advise Gulf that the vessel was seaworthy and could continue?

5

6

A Well, we must have. I don't know if we have any record, but as I mentioned previously, most of our communications were done over the telephone, so as soon as we received the seaworthiness, the Master advised us that he received the seaworthiness, we should have told Gulf Oil. That is why they proceeded with the resumption of the hire, and they took back the vessel.

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MR. SHEINBAUM: Your Honor, there is another exhibit which I took out of the damage claims last night that also wasn't marked after we had our marking session, Mr. Smith, and this is an invoice of Homeric Maritime Agencies, Inc., relative to the CAPETAN MATHIOS.

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It is, again, part of the claim asserted for the hull damage.

BY MR. SHEINBAUM:

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Q And I ask you, Mr. Hatgis, is this the invoice of Homeric for the services as stated in the invoice which reads, in part, as follows:

"Conferring with owners and charterers



1  
2 regarding seaworthiness and whether to defer  
3 repairs. Attending vessel on report of over-  
4 heating and vibration in tail shaft, arranging  
5 fabrication of propeller cone, conferring with  
6 charterers and scheduling vessel for repairs  
7 to minimize off hire time."

8 A Well, this is in accordance with what we discussed  
9 already, yes.

10 MR. SHEINBAUM: I offer this as Defendant's  
11 Exhibit V, Your Honor.

12 THE COURT: Admitted.

13 (Whereupon, an invoice of Homeric was marked  
14 as Defendant's Exhibit V.)

15 BY MR. SHEINBAUM:

16 Q Getting back to the question of why the vessel  
17 went into the repair yard, am I correct that the purpose  
18 of going into the repair yard was to repair the damage  
19 set forth on the ABS survey, and that damage did not, by  
20 itself, result in the vessel being unseaworthy?

21 A We went to dry dock to repair the propeller.

22 Q That was the intention in going in?

23 A To repair the damage caused at Tumaco.

24 Q But that damage that you knew of as you went into  
25 the yard did not render the vessel unseaworthy?

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A We had a certificate from ABS that the vessel was not unseaworthy.

Q And as far as you knew, no one knew at that time that there was an unseaworthy condition on the CAPETAN MATHIOS?

A Nobody knew the extent of the damage to the main engine on the CAPETAN MATHIOS.

Q No one knew there was any damage; is that correct?

A Well, of course, from visual examination by the experts who the American Bureau of Shipping -- they are the experts in this case. There was no apparent damage but the propeller damage.

MR. SHEINBAUM: I am at a convenient point, Your Honor.

THE COURT: Very well, we will recess, then, until 1:30.

(Whereupon, a luncheon recess was taken at this time until 1:30, September 26, 1975.)

- - -



AFTERNOON SESSION

September 26, 1975  
1:30 o'clock P.M.

THE COURT: You may proceed.

MR. SHEINBAUM: Thank you very much.

## CROSS-EXAMINATION

BY MR. SHEINBAUM (Continued):

Q Mr. Hatgis, we have already decided or discussed the fact that if no off hire whatsoever had taken place during the time charter with Gulf Oil Corporation, applying the one month more or less to the time in that charter, the vessel owner would have gotten his vessel back September 24, 1973; is that correct?

A Provided they elected to use the thirty days more.

Q Yes.

A Should be September 24.

Q And that is excluding all off-hire extensions, both attributable to the Tumaco casualty and everything else during the time charter?

A Yes.

Q In other words, Gulf Oil decided not to exercise its option?

A Yes.



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Q Do you follow me so far?

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A Yes.

3

Q We agree with each other so far?

4

A Yes.

5

Q Now, the off hire time, in accordance with the letter from Gulf that we have already reviewed, if you recall that the Amuay Bay was on and the other dry-dock time was on, that provided for a sixty-five day off-hire period?

6

A Whatever the addition was.

11

Q Whatever the addition was in that paper?

12

A Yes. May I see that paper again once more?

13

Q Oh, certainly. That exhibit is Exhibit I.

14

Do you want to keep that?

15

A Yes. Well, that would be less the fifty percent of one day, eleven hours and fifty cents.

16

Q Fifty minutes.

18

A Fifty minutes, yes.

19

Q Now, therefore, if the total time of off hire was about sixty-five days, give or take some hours, and the time allotted to the Tumaco casualty was twenty-five days, again give or take some minor hours, that would mean that the vessel owner, if Gulf exercised its option and the Tumaco casualty had not taken place, would have gotten the

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1 vessel back forty days after September 24; is that correct?

2 A Or twenty-five days before the relief.

3 Q The way it would work, if the Tumaco casualty  
4 would not have occurred, would be that you add forty  
5 days to the September 24th date?

6 A Whatever these three first off hires would be.

7 Q Now, assuming that there are forty days, would you  
8 do the necessary addition?

9 THE COURT: Do you want a piece of paper  
10 or something?

11 A It would be about thirty-seven days, thirty-  
12 seven and a half days.

13 THE COURT: Wait until you finish the  
14 computation. Do you want it in or not?

15 MR. SMITH: I would like to hear it, if  
16 I can.

17 MR. SHEINBAUM: Maybe we can review it with  
18 the witness, so we can get it on the record,  
19 Your Honor.

20 BY MR. SHEINBAUM:

21 Q Mr. Hatgis, looking at Exhibit I, there was the  
22 dry-docking at Hoboken. That was thirty days, twenty hours,  
23 and fifty-eight minutes; is that correct?

24 A Correct.



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2           There was the Amuay Bay claim of one day, eleven  
3 hours, fifty minutes, which we had to divide in half, to  
4 make it, let's say -- eighteen hours.

5           Q     Eighteen hours.

6           Then there was a repair period at the Panama  
7 Canal; is that correct, of one day, five hours?

8           A     Yes.

9           Q     That wasn't attributable to Tumaco, was it?

10          A     No, no.

11          Q     We have to add that on, too?

12          A     Yes.

13          Q     And what is the total that you get?

14          A     Twenty-four; twenty and four is twenty-four.

15          That is one day. Eighteen, nineteen.

16          Q     So that is thirty-eight days, twenty hours.

17          About thirty-nine days; is that correct?

18          A     About.

19          Q     Okay, now, if we add thirty-nine days to September  
20 24, what day would the vessel, therefore, have had to go  
21 back to the owner, if the Tumaco casualty had not occurred  
22 and all the off hire that was experienced other than the  
23 Tumaco off hire was experienced and added on?

24                If you want a calendar, I can help you with that.

25          A     November 3rd.



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2 Q Now, where was the vessel, the CAPETAN MATHIOS  
3 on November 3, 1973?

4 A Balboa; Panama Canal.

5 Q And did she have cargo on board her?

6 A Yes.

7 Q And where was she proceeding to?

8 A To San Juan, Puerto Rico.

9 Q And what day did she arrive at San Juan?

10 A November 7.

11 Q What day was she discharged?

12 A November 8.

13 Q So she would have been empty, in a physical  
14 condition to be turned back to the vessel owner on November  
15 8th, is that correct, 1973?

16 A Yes.

17 Q Now, isn't it true, therefore, that if the casualty  
18 had not occurred At Tumaco and all the off hire had taken  
19 place other than the Tumaco off hire, the vessel, if it  
20 engaged on the exact voyages that it did engage in, could  
21 have accomplished that voyage under the time charter with  
22 Gulf.

23 MR. SMITH: Objection, Your Honor. We  
24 have already stipulated in the pretrial order  
25 that the CAPTEAN MATHIOS would have completed

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3 it commitments in all extensions except that  
4 related to the Tumaco casualty on or about  
5 October 30, 1973.

6 MR. SHEINBAUM: That is on or about October 30,  
7 Your Honor. And furthermore --

8 THE COURT: Well, the on or about makes  
9 it admissible to this computation.

10 MR. SHEINBAUM: And frankly, Your Honor,  
11 we are getting down to the nitty gritty. That  
12 is why we are here today, it seems to me.

13 Thank you, Your Honor.

14 THE COURT: The objection is overruled.

15 BY MR. SHEINBAUM:

16 Q Now, can you answer the question? Would you  
17 like it read back?

18 A Yes.

19 (Whereupon, the record was read.)

20 Q So that your earlier testimony to the effect  
21 that October 26th or October 25th was the date when you  
22 would have had the vessel back was erroneous; is that  
23 correct?

24 A No. The vessel was given back to us on November  
25 24, 1973, yes. We are penalized with an off hire because  
of this casualty of so many days. The way we figured it out,



1  
2 our expected delivery was by subtracting the excess hire  
3 charged by Gulf Oil from the time that the vessel was  
4 supposed to be delivered to us.

5 Q But what we are doing is doing it the other way  
6 in relation to how it actually would have happened; is  
7 that correct?

8 A Well, I suppose a different way of calculating --

9 Q Don't we have to look at that, if the point is  
10 to find out when, in fact, the vessel would have come back  
11 to the owners, if everything had been the same and it  
12 had been operated in the same way except the Tumaco off  
13 hire was not added on.

14 A Well, I wouldn't -- I would say that if you  
15 calculated with your method, you are right. And the way  
16 we calculate it, we are right also. I cannot admit that  
17 I was wrong in my calculation or the owner's calculation  
18 because they sent us the details as to how to proceed with  
19 this claim.

20 Q Is it true, realistically, that it is actually  
21 impossible for us to know --

22 THE COURT: Who are you speaking of?

23 MR. SHEINBAUM: For anyone, anyone to know  
24 when the vessel would have come back, but for  
25 the Tumaco casualty because if the casualty had

. . . . .



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MR. SMITH: That is not true, Your Honor.

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MR. SHEINBAUM: Because the vessels used by the charterer would have obviously been subject to many different considerations.

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THE COURT: Well, if you are stating the proposition that prior to the Tumaco casualty that no one could have predicted what might happen in that interim, of course, that is just obvious. Nobody could have predicted it.

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But if you relate it to some diminution of the period of time or something of the kind, it seems to me that that is a faultily put question.

15

16

MR. SHEINBAUM: I will withdraw the question, Your Honor.

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BY MR. SHEINBAUM:

Q

Mr. Hatgis, was there a good market in early November, 1973, a good charter market?

21

22

23

A

Yes.

Q

Now, isn't it true that in a good market the normal thing to do is to fix a vessel just a few days ahead of her readiness?

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A

It all depends on the situation.

25

Q

Referring to Page 39 of your deposition, do you

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2 recall giving the following answers to the following  
3 questions?

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"Question: A ship like the CAPETAN MATHIOS  
in the conditions that were present in the  
market, let us say September 24, assuming a  
voyage, you would expect the vessel to be ready  
again September 24. When would you try to fix  
the next charter for that vessel?

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"Answer: Well, again, it depends on the  
owners. However, if the owners decide to keep  
the vessel on the spot market and trade her  
every voyage, then the normal thing to do is to  
fix her in a good market a few days ahead of  
her readiness.

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"As you saw in this particular report, you  
have there on the 20th of September, most of  
these vessels were fixed on readiness shortly  
thereafter."

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21

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23

That refers to an exhibit of 20 September, a  
Seabroker, Inc. report that will be an exhibit, Your Honor,  
and what it does is show what charters were made on  
September 20th.

24

25

Now, my question, Mr. Hatgis, was your testimony  
given at that deposition correct?



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2 A Well, again, depending on each occasion, the  
3 charter party that we fixed after the first charter we  
4 fixed after we received the vessel back from Gulf was  
5 fixed seven or eight days ahead of time. So it depends  
6 if the cargo is available and we like the cargo.

7 We might fix five days, ten days ahead, or if  
8 we don't like the cargo, you expect charters to come out  
9 that you prefer to work with. You cannot set rules.

10 Q And isn't it true that the second voyage after  
11 you got the vessel back was fixed on December 3 for a  
12 ready date of December 7th?

13 A Yes.

14 Q So that if you assume that the vessel would have  
15 gotten back to the owners on, let's say, November 8, 1973,  
16 and if you assume that you could have fixed the vessel  
17 on November 3, 1973 or November 4, 1973, or November 1,  
18 1973, isn't it true that the market conditions then were  
19 substantially different than the market period, the market  
20 conditions in early October?

21 A Well, we had assumed --

22 THE COURT: No, this is a single question,  
23 now. The question is were the market conditions  
24 substantially different from the dates that counsel  
25 just mentioned?



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THE WITNESS: Yes, if we assume that we would have received the vessel back on November 8.

Q And further, assuming that you would have fixed it a few days before that or around November 1, that was part of my question also, and I wanted to make sure that you understood.

A We would fix perhaps a week ahead of time or perhaps two days ahead of time, perhaps ten days ahead of time.

Q In fact, the market drop from the beginning of October to early November was catastrophic, wasn't it?

A Not catastrophic until November.

Q It was radical, wasn't it?

A Well, it was a drop, yes.

Q It went from 400 to under 300, didn't it?

A Yes.

Q And it continued to go down from November 1 on; isn't that correct?

A Well, ever since then.

Q Ever since, right. Now, if the vessel owner had gotten the vessel back at November date, or thereabouts and had fixed it early in November, he would have fixed it for one voyage, probably; isn't that correct?

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A Depends on the market. It depends on what is available. If the owner felt that the market was dropping and there were two voyages available, he would have fixed two voyages.

Q In working out your averages in your testimony that you gave, did you assume two voyage charters?

A We assumed two voyage charters.

Q Let's continue to assume that, now. He would have fixed the vessels twice, correct?

A Yes.

Q And whatever date he had fixed the first voyage for, he would have fixed the second voyage for approximately fourteen days later. Doesn't that make sense?

A It would be about twelve days later, but the date of fixture does not necessarily have to be fourteen days or twelve or ten days later.

Q But it could very well have been that far later, again?

A Many things could --

Q Again, depending upon how many days prior to the ready date the charterer, the owner would have fixed the charter, right?

A He would have fixed whenever there was a suitable cargo that made sense to him.



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Q And therefore, isn't it true that for the second voyage, as the market kept dropping after November 1, the rate would have even been less than the first voyage?

A Well, that is shown, yes, of course, shown in the calculations.

Q That is show by the experience at that time?

A Yes.

Q Now, if that is true, if what I have postulated and assumed is true, namely, a November 8 return to the vessel owners, a fixing of the vessel several days prior to November 8, two voyages being contracted for, the second one being later than the first, isn't it true that your calculations of \$354,000 profit for an off hire hire period for the last twenty-five days of the charter period is grossly in error, assuming what I said to be true?

A Assuming that the days that you mentioned are correct, the calculations are not realistic.

Q Now, I would like to proceed with a little more detailed analysis for the Court as to what voyage charters are really about.

An owner has a vessel and he wants to engage in a voyage charter, let's say Caribbean-United States-Atlantic Coast ports. That means, does it not, that the charterer has the option to name a Caribbean port and



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2 United States Atlantic port to deliver the cargo to; is  
3 that right?

4 A Correct.

5 Q The charter itself doesn't specify what ports are  
6 involved; is that correct? ^

7 A Generally speaking, yes, you are right.

8 Q When the charter is made, it is made at World  
9 Scale rates, let's say, for example, 300. But when the  
10 charter is made, the owner doesn't know how much that 300  
11 scale is going to get him in freight yet, does it, the  
12 actual amount?

13 A Of course not.

14 Q There are basic rates for delivering a ton of  
15 cargo under a voyage charter between any two ports; is  
16 that correct?

17 A Correct.

18 Q And what you do is to find out what freight  
19 you are owed to a particular voyage. As an owner, you have  
20 to look at the ports that have been selected by the  
21 charterer and apply the base rate to the World Scale that  
22 is applicable; is that right?

23 A In order to --

24 Q Determine the freight times the amount of cargo  
25 carried?

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2           A     For a specific place?

3           Q     Yes.

4           A     We have specific ports, that's right.

5           Q     Yes, that's what I am talking about. So the  
6 variables are not, the variables, rather, are that  
7 different ports can be involved; is that correct?

8           A     Correct.

9           Q     And different ports being involved means different  
10 rates being applied?

11          A     Correct.

12          Q     To the same World Scale, right, and regardless  
13 of what World Scale exists?

14          A     300, yes.

15          Q     Because you may be going to a different port,  
16 the end result is going to be different in terms of freight.

17          A     The end result..

18          Q     Between any two ports.

19          A     The end result will be the same. The freight  
20 collected will be different. The profit to the owner  
21 should be the same.

22          Q     All right, now, let's take, for example, maybe  
23 we can make this a little more graphic. Let's take Voyage  
24 13, which was the first voyage after the vessel owners  
25 got the vessel back, the CAPETAN MATHIOS back.

. . . . .

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2 correct?

3 A Correct.

4 Q Now, going to the charter party first, which is  
5 the last document, that indicates that there was a World  
6 Scale of 300 for that voyage; is that correct?

7 A Correct.

8 Q Now, in fact, the vessel on this voyage was to  
9 carry cargo from Aruba to Pensacola and then go back to  
10 another port; is that correct?

11 A Go back to the Caribbean, yes.

12 Q Go back to the Caribbean, yes. Now, between  
13 Aruba and Pensacola, as indicated on the second page of the  
14 exhibit, the base rate was \$1.75 per ton; is that correct?

15 A Correct.

16 Q Now, the World Scale of 300 was applied to the  
17 \$1.75. In other words, the \$1.75 was multiplied three  
18 times, which is how the World Scale works to arrive at the  
19 figure of \$5.25 per ton carried for that voyage; is that  
20 correct?

21 A Correct.

22 Q And that is how you get the figure of \$143,524.50;  
23 namely, by multiplying 27, 338 long tons carried?

24 A Yes.

25 Q And after deducting the commission of the broker,



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11 side?

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owner because of an unusual delay that the owner is not

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2 Q And that shows that you have a daily profit of  
3 \$2,179.36 per day; is that correct?

4 A Yes.

5 Q And that is the profit you were making under  
6 the time charter with Gulf?

7 A Yes.

8 Q And you used the \$1,600 figure in making this  
9 calculation on Exhibit 30?

10 A Right.

11 Q So what you did then was multiply thirteen times  
12 the \$1,600 and come up with an expense of \$20,800 for  
13 that voyage?

14 A Yes.

15 Q And then you proceeded to figure out what the  
16 bunkers or fuel cost you for that voyage. That came to  
17 \$24,288; is that correct?

18 A Correct.

19 Q And then the loading port expenses are \$1,400  
20 were added, and the discharging port expense of \$1,300  
21 were added, for a total expense item of \$47,788; is that  
22 correct?

23 A Yes.

24 Q And then you divided that by thirteen, if I  
25 am correct. I am sorry, you divided the difference between

5 A Correct.

11            A     Correct.

13           A       May I make a comment here? This \$7,331 is  
14 what we assumed the vessel made per day on the basis of  
15 thirteen days.

17           A       In port. However, had we estimated this voyage,  
18 we would have estimated it on the basis of eleven days.

21 A Not with this short a voyage. You see, Aruba-  
22 Pensacola, you see it is a four-day voyage versus a five-  
23 day voyage. So these particular voyages should have been  
24 eleven days, had it not been for the delay at Pensacola,  
25 when you estimate a total of three days loading and



5 Q But it was something you agreed to; namely, the  
6 thirteen days?

8 Q Less the demurrage?

11 Q And that can happen from time to time on any  
12 voyage, can't it?

14 Q Now, looking at the next voyage, which is Exhibit  
15 F, Mr. Hatgis, between what ports was that voyage?

17 Q Now, how long is that voyage, normally?

19 Q So there is one day difference?

23 Q You have fourteen days here, actually.

24 A The estimate should be thirteen days, and you hope  
25 you will do it in twelve days. Let's put it that way.

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Q Well, does the twelve days compare realistically for this voyage with the eleven days of the Pensacola trip?

A Yes.

Q Now, looking at the figures for Exhibit F, the base rate in that instance was \$2.21 as compared to the day's rate of \$1.75 in the Pensacola trip?

A (nods head)

Q Now, is it your testimony that the one day difference can be made up and is made up by the approximately fifty cents difference in that base rate?

A Well, I don't know how World Scale figures rates. This is a matter of World Scale.

Q That is the rate you live by in the charter market business?

A Yes.

Q So isn't it true, therefore, that in the case of charters taking approximately the same time between different ports, Caribbean and United States, one can be much more profitable to an owner than others?

A Theoretically, no, because if you notice --

Q What about practically?

MR. SMITH: Let him answer the question.

THE WITNESS: Theoretically, if you see the \$1.75 pertains to a port like Aruba, which has

1  
2 about 800 or \$900 or \$1,000 disbursements versus  
3 a port like Bago Grande, which has disbursements  
4 of about three or \$4,000.

5 Again, in Pensacola we had disbursements  
6 of about \$1,300 versus Philadelphia, which are  
7 \$2,500. And all these are taking into considera-  
8 tion the expenses of different ports. The times,  
9 and everything is taken into consideration by  
10 World Scale in order to fix the rates. That  
11 is why we live with them because World Scale  
12 makes a calculation. They provide us with the  
13 rate.

14 BY MR. SHEINBAUM:

15 Q Now, what about as a practical matter, as a  
16 practical matter, isn't it true that voyages between  
17 certain ports in the Caribbean and certain ports in the  
18 United States at the same World Scale taking approximately  
19 the same time can be more profitable than voyages between  
20 other ports?

21 A If you have perfect conditions in both ports,  
22 they should be the same.

23 THE COURT: If you have what?

24 THE WITNESS: If you have perfect conditions  
25 in both ports. If you go in and out of Aruba --



1 THE COURT: I couldn't quite understand that  
2 word.  
3

4 THE WITNESS: If we can go to Aruba, we will  
5 prefer to go to Aruba because we expect we would  
6 have a better dispatch. If we go to Maracaibo,  
7 you have to go through -- you have to wait for  
8 a pilot. You might encounter delays. The berths  
9 are not as many as there are in Aruba, so  
10 practically, we prefer -- we know through experi-  
11 ence which for us are the most suitable ports.  
12 But when the people at World Scale have calculated  
13 the rates, they have taken into consideration  
14 all the problems of the various ports.

15 BY MR. SHEINBAUM:

16 Q Aren't you actually saying that as a matter of  
17 experience you make more profit at the same World Scale  
18 between certain ports than others?

19 A It is not necessarily true. It could be.

20 Q I am not asking whether it could be. I am  
21 asking you as a matter of experience. Isn't it true?

22 A Would you repeat the question.

23 Q Isn't it true that as a matter of experience  
24 and practical and in reality and in terms of making money  
25 that at the same World Scale voyage charters taking

1  
2 approximately the same time, some of them are more profitable  
3 than others between certain ports.

4 MR. SMITH: Objection to the question on  
5 the grounds that although it seems to be one  
6 question, he has put in a lot of items that can  
7 be dealt with separately, as separate questions,  
8 and I am not sure the witness can deal with them.

9 THE COURT: You can break it down. I under-  
10 stood what you meant, but perhaps he didn't.

11 MR. SMITH: It seems to be a rather broad  
12 question.

13 BY MR. SHEINBAUM:

14 Q Isn't it true, Mr. Hatgis, that on the basis of  
15 your experience, a vessel owner can make more money if  
16 the voyage on which the vessel is engaged is between two  
17 specific ports at the same World Scale and taking approxi-  
18 mately the same time as with a voyage to other ports,  
19 speaking about the Caribbean-United States carriage?

20 A No, because we have to go by the theory of the  
21 matter. Shipping changes so much from day to day. One  
22 voyage you might make more in one port, and the next voyage  
23 you might lose more in the next port. But you have to be  
24 guided by some kind of a set --

25 Q Will you finish your answer? A set what?

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A Certain rules, so when we fix on 300 World Scale, we figure what the profit approximately will be, more or less, if all conditions were perfectly -- it should be the same.

Q If you had your choice as an owner and you could pick your two ports Caribbean and United States World Scale 300, where would you want to be?

A The easiest ports.

Q Which would be what?

A Aruba.

Q And?

A Puerto La Cruz.

Q What about United States ports?

A If it is a weekend, I wouldn't care to come to New York. If it is a weekend, I would hate to go to Philadelphia because the expenses would be five times as much as on a weekday in the morning. There are many variables. You can never say beforehand, say, "I would prefer to go here or there."

Q I am asking you a hypothetical question as an owner.

A I would rather go to Florida where the weather is good and I know that I won't have any fog or bad weather or delays because of weather.



1 Q Aruba, Florida?

2 A Yes.

3 Q And to put it very simply, then, if I understand  
4 you correctly, the voyages would probably average out to  
5 be shorter than voyages elsewhere?

6 A They would be shorter, but the rate you get is  
7 lower. You get \$1.75.

8 Q If you end up with the same profit, why would  
9 you like one port over another?

10 A Because, as I said, in shipping there are so  
11 many external forces that make your calculations go out  
12 of the window. If you come to New York and you lose two  
13 days with fog or bad weather, your calculations go to  
14 pieces.

15 Q Now, another variable would be the amount of  
16 cargo carried; is that correct, on the voyage, in terms of  
17 what money the vessel owner would make at the same World  
18 Scale?

19 A The amount of cargo to be carried, it is determined  
20 by the official capacity, and you cannot carry more than  
21 what you are allowed by the International regulations.

22 THE COURT: I think what he is trying to  
23 get at is sometimes you have to travel with less  
24 than full cargo, don't you?  
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THE WITNESS: Oh, yes, yes, but that is --

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THE COURT: And that reduces your profit  
on that trip, doesn't it?

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BY MR. SHEINBAUM:

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Q Yes, but the point is that the charter very often  
is for less than the capacity of the vessel.

20

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A Well, this is common sense. This is natural.

Q Excuse me?

A It is natural.

Q Now, on Voyages 13, 14, and 15, which were the  
three voyages after the charter with Gulf expired -- and  
you have them in front of you -- isn't it true that the

3 A Yes.

8       A       Yes. If you look at the charter party, you will  
9 see what quantities we had agreed to carry when we fixed  
10 the ship.

13 A Well, we assumed full cargo.

14 Q What is a full cargo?

15 A Twenty-nine thousand.

16 Q So you assumed an average of a thousand tons more  
17 than you actually carried in the three voyages when you  
18 finally got the ship back?

19 A That is what we can lift. That is what the ship  
20 is rated to lift, 29,000. Now, whether we lift less in  
21 these cases, it is a matter of agreement that we had  
22 with the charterer. They didn't have enough cargo, and  
23 we agreed to lift less. But the ship is capable of lifting  
24 29,000 tons of cargo on the trip from the Caribbean to the  
25 United States.

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A Sixteen we lifted 24,924. We collected dead freight. That is, the charter didn't have enough cargo.

THE COURT: Just read the tonnage that you carried, please.

THE WITNESS: No. 17, 28,525; No. 18, 29,893; 19, 29,212; 20, 28,084. That was because --

THE COURT: Whatever the reason is, just give us the tonnage.

THE WITNESS: Voyage 21, 28,157; 22, 28,518; 23, 29,671; 24 -- I don't have the cargo here.

BY MR. SHEINBAUM:

Q What date was Voyage 24 entered into?

A The charter party was July 16th. I am sorry, April 16, '74.

Q July 8th?

A No, April 16, 1974. Voyage 25, 29,391; Voyage 26, 26,728; Voyage 27, 30,255. We went to a tropical area where we were allowed to carry more cargo.

Q Mr. Hatgis, getting back to your \$354,000 figure and your World Scale 375, what ports did you assume?

A We assumed --

Q What ports did you assume?

A Caribbean versus United States Atlantic.

Q Did you pick a flat rate to apply the World Scale

1  
2 of 375 to?

3 A I don't understand.

4 Q In order to figure out what you get for a World  
5 Scale 375 voyage, you have to apply some sort of rate per  
6 ton?

7 A Yes.

8 Q Is that correct?

9 A Yes.

10 Q Where did you get that rate per ton?

11 A I believe we used Puerto La Cruz-Philadelphia  
12 on some older calculations that were prepared that you have  
13 copies of.

14 MR. SMITH: Maybe I could suggest that you  
15 refer to Exhibit 13, which has that calculation  
16 in it.

17 Q Again, what two ports? Puerto La Cruz and where?

18 A Philadelphia, because that was the Gulf Oil  
19 basic trade at the time.

20 Q Did you assume that you were going to continue  
21 in Gulf Oil basic trade after you got off the time charter  
22 with Gulf?

23 A We didn't make any assumption. We just took it  
24 at random for a voyage to calculate.

25 Q And what is the flat rate? What is the flat

1

2 rate for Philadelphia?

3

4 If you look at the -- I don't know, I don't have  
5 Exhibit 13. I should have it.

6

MR. SMITH: I am sorry. It is Exhibit 14.

7

8 (Continuing) \$2.13. That was the posted --

9

10 And how long does a voyage between Philadelphia  
11 and Puerto La Cruz take?

12

13 Thirteen days, considering three days loading and  
14 discharging.

15

16 Thirteen days?

17

18 Yes.

19

20 That is a realistic figure?

21

22 Yes.

23

24 In your opinion?

25

26 Yes.

27

28 Could it be less?

29

30 By a day, if you like. It could be fifteen days.

31

32 Well, comparing it to the eleven-day figure  
33 for Pensacola --

34

35 Yes.

36

37 -- on the basis that you figure it out, eleven  
38 days. What would the comparison figure be for Puerto  
39 La Cruz-Philadelphia?

40

41 A Puerto La Cruz is farther out than Aruba, so  
42 . . . . .



1 F R A N K D. P I L L A T T, called as a witness  
2 on behalf of the Plaintiff, having been first duly  
3 sworn by the Clerk of the Court, testified as follows:

4 COURT CLERK: Please be seated. State your  
5 name in full, and spell your last name.

6 THE WITNESS: My name is Frank D. Pillatt,  
7 Jr., P-i-l-l-a-t-t.

8 COURT CLERK: Frank D. Pillatt, P-i-l-l-a-t-t.

9 DIRECT EXAMINATION

10 BY MR. SMITH:

11 Q Mr. Pillatt, what is your occupation?

12 A I am a marine surveyor, consulting engineer, and  
13 appraiser.

14 Q What is your background, educationally?

15 A I graduated from the Massachusetts Institute  
16 of Technology in 1940, having completed a course of naval  
17 architecture and marine engineering.

18 Q And have you been continuously employed since  
19 1940 in the business of being a naval architect, marine  
20 engineer, and as a consultant?

21 A I do not practice the profession directly as a  
22 naval architect as a specialty. I declined to follow it.  
23 From 1940 to 1946 I worked for the Bethlehem Steel Corporation  
24 in their ship repair yards at Hoboken and East Boston,  
25 Massachusetts. In 1946 I went into the marine survey

1  
2 practice, and in 1952 I formed my own firm with a partner.

3 Q What is the name of that firm?

4 A It was Pillatt & Johnson. Mr. Johnson returned  
5 to Mobile, and the firm now is called Pillatt & Sweeney  
6 Corporation.

7 Q And that corporation is in New York City; is that  
8 correct?

9 A The corporation is in New York City, yes, sir.

10 Q Did you have occasion at my request to examine  
11 the CAPETAN MATHIOS when it was in the shipyard in Hoboken  
12 in March and April of 1973 when it was on dry dock?

13 A I examined the vessel in April, 1973, yes, sir.

14 Q Did you make any notes at that time?

15 A I did.

16 MR. SMITH: And those notes are Plaintiff's  
17 Exhibit 28, Your Honor. I think you have them  
18 there.

19 THE COURT: Yes, I have them.

20 MR. SMITH: Your Honor, these are the  
21 actual pages out of his notebook. He keeps a  
22 notebook as a permanent record. He has other  
23 matters in the same book.

24

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. . . . .

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2 CROSS-EXAMINATION

3 BY MR. SHEINBAUM:

4 Q Mr. Pillatt, was it your understanding at the  
5 time you made the survey in question -- as on Page 3 of  
6 your notes, which are Exhibit 27?

7 A My original notes are not labeled, by the way.

8 Q Well, let me finish the question.

9 -- Exhibit 27, which is the larger -- not your  
10 notebook, but the larger notes. Is it your understanding  
11 that the vessel dry-docked? I am quoting you now, "Vessel  
12 dry-docked now mainly for propeller repair. Install  
13 new fair water cone. No one was aware of the trouble."

14 A This is what I was informed.

15 Q Who were you informed of that by?

16 A On the initial day that I attended, which I believe  
17 was April the 4th, there were a number of people present  
18 when we discussed this rather unusual condition. We had  
19 quite a conference about it.

20 Mr. Smith, Mr. Nick Hatgis the owner's  
21 superintendent, Mr. Fafalios, these names all appear in  
22 my notebook, by the way. Mr. Towner, who was the American  
23 Bureau surveyor, Mr. Ray Crowther, I believe, was present  
24 at that time for the underwriters in London. Mr. Albaum  
25 of the Bethlehem Steel Company was also there, and there



1  
2 was a specialist from the Engine Builders, a fellow by the  
3 name of Derek J. Middleton, who was also present at this  
4 meeting and a later meeting, which was roughly two weeks  
5 later.

6 We discussed these various facets of what  
7 probably caused this unusual condition.

8 Q That is where you got that information?

9 A That is where I got that information, from these  
10 gentlemen. I believe I asked most of the questions and they  
11 came up with the various answers.

12 Q What was the purpose of a fair water cone?

13 A Fair water cone -- and to be more specific,  
14 since I use the expression, a propeller fair water cone  
15 is a device to streamline the flow behind the propeller  
16 hub as well as to protect the threaded end of the tail  
17 shaft and the large nut that attaches the propeller to the  
18 tail shaft.

19 Q To protect it from what?

20 A Corrosion, from lines fouling. It can be  
21 several different shapes. Some of them are rather square.  
22 Some are round, some pointed.

23 Q How would you define the term "seaworthy" as  
24 you used it in responding to Mr. Smith's last series of  
25 questions?

. . . . .

*Frank D. Pillatt—for Plaintiff—Cross*

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A Normally, bottom painting is not included in damage surveys, and my survey was a damage and investigative survey. That is covered under the adjustment rules for insurance purposes.

Q Do you have any opinion as to how long it would take to put a vessel on drydock, clean and paint the bottom, and then apply anti-fouling, and then get the vessel off the drydock?

A For a vessel this size, that could be done in three to four days, if that is all the work there is.

MR. SMITH: I am trying to find the bill, your Honor. I will submit it at a later time.

THE COURT: He has given his estimate.

MR. SHEINBAUM: Yes, your Honor. I would like to check my notes, sir.

BY MR. SHEINBAUM:

Q Attached to your Exhibit 27, which is, again, the yellow pages as they appear in front of you, an ABS survey and what has been referred to as a seaworthiness certificate, the survey indicates that the three propeller blades were badly damaged, and assuming that the vessel was tipped at Tumaco so that they could see this and that the fair water cone and upper guard was missing and the

. . . . .

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2 he is talking about seaworthiness here for a different  
3 purpose?

4

MR. SMITH: Objection. We have two questions  
5 outstanding, and I think the witness should be  
6 allowed to answer.

7

BY MR. SHEINBAUM:

8

Q Answer the first one.

9

A Mr. Sheinbaum, we are in that gray area where  
10 I stated that seaworthiness usually is a matter of opinion.  
11 And again, specifically, I hesitated over the matter of  
12 the propeller damage based on my knowledge of it.

13

Q Do you know what, if any, classification surveys  
14 were made on the vessel while it was in the repair of  
15 April 1973?

16

A No.

17

Q Do you know how to read an ABS repair record of  
18 status?

19

A I think so.

20

Q Referring to Exhibit 5, can you tell us from  
21 reading that as to what classification surveys were  
22 accomplished in the yard period in April of 1973 with  
23 that vessel?

24

A In April of '73 the vessel was dry docked, and

25



1 this writing is quite difficult to read. An annual machinery  
2 survey was carried out. An annual hull survey was carried  
3 out. A new tail shaft was installed.  
4

5 Q Is that classification, what I mean is any  
6 classification survey other than related to the damage that  
7 you surveyed? I am sorry. I didn't make myself clear.

8 A The tail shaft, of course, is part of the damage,  
9 and propeller is part of the damage. There was a boiler  
10 survey carried out, an annual load line inspection was carried  
11 out. And some sort of a machinery survey was carried out.  
12 I can't tell exactly what. That looks like CMCT.

13 Q Do you have any opinion as to how long those  
14 surveys would have taken to be made?

15 A Frankly, no, because the surveys could have been  
16 done in stages. For instance, the annual machinery survey  
17 is usually just a walk around. That is a single day. An  
18 annual hull survey, again, is usually a walk around.  
19 That can be done in one day. Boiler survey --

20 THE COURT: One day for each?

21 THE WITNESS: You could do them both in one  
22 day under some circumstances, your Honor. And  
23 very often they are done in one day, unless  
24 there are major repairs being carried out. A  
25 boiler survey may take a day. It may take

1 three weeks, depending on what is going on. Or  
2 part of the boiler survey may have been effected  
3 at some prior port. Therefore, I cannot give  
4 you an exact answer to that question, but I  
5 think I have answered it to the best of my  
6 ability.  
7

8 MR. SHEINBAUM: Thank you. I have nothing  
9 further.

10 THE COURT: Anything further?

11 REDIRECT EXAMINATION

12 BY MR. SMITH:

13 Q Mr. Pillatt, on the boiler survey and load-line  
14 survey and annual survey, can they be carried out someplace  
15 other than the shipyard?

16 A Yes, they can be carried out with the vessel  
17 afloat, anywhere.

18 Q And this is done while the vessel sometimes is  
19 loading and discharging, or --

20 A That is correct.

21 Q There is no delay to the vessel, in other words?

22 A That is correct.

23 Q On the CAPETAN MATHIOS, there is evidence to  
24 show that there was damage on the propeller. You have  
25 observed that damage yourself and on the diagrams that you

. . . . .

P R O C E E D I N G S

THE COURT: Good morning, Gentlemen.

Carry on, please.

N I C H O L A S      H A T G I S, recalled as a witness,  
having been previously duly sworn, testified  
further as follows:

MR. SHEINBAUM: Good morning, Mr. Hatgis.

THE WITNESS: Good morning.

CROSS-EXAMINATION

BY MR. SHEINBAUM (Continued):

Q     You testified that you obtained an average of  
375 World Scale for the calculation of the loss of use  
claim during the extension period of the CAPETAN MATHIOS  
on the time charter with Gulf Oil Corporation.

Do you recall that?

A     Yes.

Q     Would you tell us how you got this average?

A     Well, we assumed that on our first voyage, if  
we were to charter the vessel at, with a readiness to  
load of October 25th, we should be able to obtain, in the  
present market condition, a rate of about 450 World Scale.

Then, considering a twelve to thirteen day voyage  
at that level, our next rate would figure to be about 300  
World Scale. Taking the average of the two, we reached the



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2 figure 375 World Scale.

3 Q Do you have any opinion as to what the World  
4 Scale would be if you had to, if the period was extended  
5 two weeks further, even?

6 A If it was extended, it would be below 300 World  
7 Scale.

8 Q Do you have any opinion as to approximately what  
9 it would be?

10 A Now?

11 Q What it would have been.

12 A Well, it is a little too far back. The tanker  
13 market changes so rapidly every day, I cannot give you now,  
14 after three years, what my feelings would have been at that  
15 time.

16 Q Do you have anything that you could refer to?

17 A Yes, yes.

18 Q To ascertain what you think it would be, what  
19 the rate would have been if you had extended it, if you had  
20 had the period extended even two weeks later than the  
21 hypothetical voyage you calculated the 300 for?

22 A Yes, I have to look through the World Scale.

23 Q Please do so.

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5 BY MR. SHEINBAUM:

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Q Yes.

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days later, approximately, so it would be about November 20, with the market conditions at that time. Am I comprehending you correctly?

BY MR. SHEINBAUM:

Q Yes.

A Well, I am starting now from the 13th of November, looking at the report of fixtures taking place for specific dates. We have a 19,000 tonner with dates of November 18 at World Scale 300. We have a 25,000 tonner for November 18, 300.

Q Excuse me, Mr. Hatgis, what date are you looking at?

A I brought with me the complete file of Seabrokers, so I am looking at the November 14th.

Q And would you describe what the Seabroker, Inc., sheet in front of you is?

A This is a report of all the business computed on that particular date. This information is collected by various brokers. And Seabrokers is one of the tanker brokers. And they obtain this information through hearsay or through Telexes received from abroad, or what have you, and at the end of the day, they make a report stating what fixtures took place and also what orders there are in the market, just to keep the tanker people abreast of what is

1  
2 happening.

3 Q Now, are you aware of how complete this report  
4 is? By that, I mean, does this sheet represent all the  
5 fixtures that were made in the marine market on that day,  
6 or is this simply based on the best information that  
7 Seabrokers, Inc., was able to obtain?

8 A I am sure it is based on the best information  
9 they could obtain.

10 Q Thank you. Would you then continue with your  
11 answer as to the rate that you believe would have been ob-  
12 tained relative to a fixture about November 20?

13 A Well, I have to read a few of these fixtures to  
14 get the idea. 37,000 tonner for the 17th of November  
15 received 205 World Scale. The 27,000 tonner for the 20th  
16 of November received 300 World Scale. The 24,000 tonner  
17 for the 17th of November received 300 World Scale.

18 Q Which are you looking at?

19 A I was looking at the 15th.

20 Q At the 15th.

21 A Now I will go to the 16th. The 16th, 33,000  
22 tonner for the 20th of November received 226 3/4 percent  
23 World Scale.

24 Q 226 3/4?

25 A 25,000 tonner received 290 World Scale. I am  
• • • • •



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2 THE COURT: And Mr. Smith, of course, will  
3 have the privilege of adding any additional  
4 items that he cares to add after he has had a  
5 chance to look it over.

6 Go ahead.

7 BY MR. SHEINBAUM:

8 Q So that I understand you correctly, Mr. Hatgis,  
9 the 375 average World Scale you obtained was seeing what  
10 the low fixtures were for that time and the high fixtures  
11 were and taking something in between.

12 A No, this was taken without considering such a  
13 late date as you just indicated. The dates that I took,  
14 the owners took into consideration were the dates commencing  
15 on October 25th for the first voyage and November 7th for  
16 the second voyage. The dates that I just gave you were  
17 for November 20.

18 Of course, the market was quite different.

19 Q My point was that what you did with reference  
20 to the time period that you were testifying to and gave  
21 testimony as to 375 World Scale in that time period, what  
22 you did was look at the low rates, look at the high rates,  
23 and pick out something in between; is that correct?

24 A Well, for the first voyage I took the highest  
25 rate that we would have obtained, and we had no reason but

1  
2 to obtain a high rate if we were right in position. So  
3 those particular dates or for those dates of readiness  
4 for a vessel, the 450 was a realistic figure.

5 THE COURT: But you took the top figure  
6 for that voyage.

7 THE WITNESS: Yes, of course, but that is  
8 the market for that particular date.

9 THE COURT: You didn't pay any attention  
10 to this data that you have taken the time to  
11 elaborate here?

12 THE WITNESS: What?

13 THE COURT: You didn't give any attention  
14 to that excepting to fix it for that date.

15 THE WITNESS: No, for that period, for that  
16 period we would have fixed between 430, 450. We  
17 would have no trouble fixing at those rates.

18 Q What would be the range of World Scale at that  
19 time?

20 A In this tanker market, we could trade a vessel  
21 with XYZ Company, and all of a sudden Y Company might come  
22 in and we can get fifty points more from the Y Company.  
23 So you cannot say what is the range of market conditions  
24 at that particular moment when you fix. So the market  
25 may be 400 at three o'clock in the afternoon and 3:30 you

1  
2 might fix at 450 or 500. It is psychological, and many  
3 factors are taken into consideration when you trade a  
4 ship.

5 BY MR. SHEINBAUM:

6 Q So it is very difficult to predict with any  
7 accuracy the exact fixture that you would have obtained?

8 A The upper level. The lower level you can fix.

9 Q The lower level you would --

10 A You wouldn't fix for anything below the last time.  
11 You always try and improve the last time. If the last time  
12 in a rising market was 450, you would certainly fix not  
13 below 450.

14 Q The figure of \$354,000 profit that you calculated  
15 for the loss of profit. Could you tell us how that was  
16 obtained?

17 THE COURT: Was that figure \$354? I thought  
18 it was \$358.

19 BY MR. SHEINBAUM:

20 Q Mr. Hatgis, what was it, \$354 or \$358?

21 A I don't have that slip of paper.

22 MR. SMITH: I believe Your Honor was right.  
23 It is \$358,000.

24 THE COURT: That is the figure I jotted  
25 down.



1 BY MR. SHEINBAUM:

2 Q That figure \$358,000. Could you tell us how  
3 you obtained that?

4 A Well, some time early that summer when the  
5 approach of the end of the end of the charter party with  
6 Gulf Oil was in sight, the owners wanted to evaluate the  
7 market and the prospects, and they wanted to decide whether  
8 they should extend this particular voyage to Gulf Oil for  
9 another period of three years or to keep the vessel open  
10 for trading in the day-to-day spot market.

11 So at that time, they asked me my opinion, and  
12 I sat down and I made some projections what the market, or  
13 what the results would be, a performance of the ship  
14 financially on various levels of the market, whether it  
15 was 300 or 400 or 250. And I tried to compare that with the  
16 vessel's time charter rates.

17 At that time we were talking in the area of  
18 \$8 time charter for three years. So I made these projections  
19 to show them the equivalence between the \$8 time charter  
20 vessels, the various World Scale rates, and from that  
21 calculation that I made, and I submitted to the owner some  
22 time ago, we based our figures of losses.

23 Q Now, is that Exhibit No. 14 that you are referring  
24 to, which formed the basis of your calculations that you are  
25

1  
2 referring to?

3 A Yes. This is taken as a basis, Puerto La Cruz  
4 to Philadelphia voyage. That was the Gulf Oil trading  
5 pattern at the time.

6 MR. SHEINBAUM: Would Your Honor care to  
7 look at that?

8 BY MR. SHEINBAUM:

9 Q Now, do I understand you correctly to say that --

10 A I am sorry.

11 Q You wanted to say something.

12 A I just wanted to say this was at the time a  
13 confidential report to the owners of the vessel, just for  
14 them to be able to evaluate and decide as to what to do.  
15 This was prepared, with no consideration of this present  
16 case that we have right now.

17 Q Now, with respect to Exhibit 14, let me ask you this:  
18 For the time period late October, early November of 1973,  
19 what was the bunker cost for a voyage? What was the  
20 bunker cost that a voyage of CAPETAN MATHIOS would have  
21 to incur?

22 A Exactly that period was October, late October.

23 Q Late October, early November.

24 A I think I brought it with me, the Chevron price-  
25 list of October 1st.

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Q Well, let's talk about late October. That is more relevant.

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A The next was December 2nd, so from October 1st to December 2nd would be the same pricelist. You could not get any bunkers the latter part of November, and the pricelists were of no value because you were paying up to \$100 a ton for bunkers the latter part of November. But this --

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Q Was that \$100 per ton?

A \$120 per ton. After the Arab embargo, bunkers

became extremely scarce, and the oil companies were not disposing of bunkers as easily. But the October 1st pricelist -- and again, I don't recall offhand the date of the Arab embargo.

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Q We have Exhibit S, which gives a chronology of the events, if you care to look at that, Mr. Hatgis.

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A Well, October 27, Saudi Arabia bans export to the Netherlands. October 16, Arabian Gulf members of OPEC increase the price by seventy percent.

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Arabian oil rises from \$3 to \$5.11. October 17, OPEC members agree to cut back oil production by five percent. October 18, embargo of oil exports to the United States.

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Q Well, let me ask you this: With respect to a



1 voyage taking place the beginning of November -- strike  
2 that. I am sorry. For a voyage of the CAPETAN MATHIOS,  
3 assuming you had to pay \$100 per ton for the bunkers for  
4 a voyage to the Caribbean, Puerto La Cruz-Philadelphia,  
5 what would the cost of bunkers be for that voyage?  
6

7 A Well, I have to calculate that, but I might  
8 say that on Voyage 13, I believe I have attached copy of  
9 the bunker cost at the time, which shows the cost of  
10 bunkers per ton being \$35, if I am not mistaken.

11 Q And referring to Voyage 13's calculations, which  
12 are Exhibit E, what was the bunker cost for that voyage?

13 A \$25,000.

14 Q Now, in using, in arriving at the calculations  
15 on Exhibit 14, which are the calculations to figure out the  
16 profit --

17 A Yes.

18 Q -- of the CAPETAN MATHIOS that you allegedly  
19 lost, what was the first voyage of bunker cost that you  
20 assume?

21 A \$16,000, because at the time bunkers were  
22 estimated at \$23 per ton, which was the market prevailing  
23 then.

24 Q What is "slippage" in charter language? What  
25 does that term mean? Are you familiar with the term?

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Q Is there a time within which, if everything goes perfectly, a voyage, for example, Puerto La Cruz-Philadelphia, will take?

A Ordinarily, you take into consideration the mileage involved, the speed of the vessel. You figure out how much your trip up, how much your trip down would take.

Normally, for a vessel of this type it is a five-day trip up. If there is no congestion at Puerto La Cruz Terminal, you would get in and out in one day, and if there is no congestion in Philadelphia you would come in and out in one day again.

So, the minimum that the trip should take is twelve days. As I mentioned Friday, we always calculate one extra day to cover the laytime allowed, which is seventy-two hours. The charterers are allowed to load and discharge the vessel, so we allow in our estimates three days, and we hope it will do it in twelve. But it is very possible many times that we might have bad weather, and instead of making the trip up in five days, we might make it in seven days. Or it is possible that the vessel has to wait for another vessel to discharge at the terminal of the oil company, so she might wait five days to discharge.

These things we don't know, but normally, when we calculate, we calculate on the basis that I just mentioned.

. . . . .

1 BY MR. SHEINBAUM:

3 Q Do I understand correctly that if bad weather  
4 took place above the lay day, extending the period beyond,  
5 one day beyond the twelve, that would be something that you  
6 would not get demurrage for?

7 A Whatever bad weather is encountered, whatever  
8 delays encountered by the vessel is for the owner's account  
9 if he is a voyage charterer. If there is a time charter,  
10 there is no point.

11 Q That would be unless it was the fault of the  
12 charterer; is that correct?

13 A It couldn't be the fault of the charterer to have  
14 bad weather.

15 Q No, but if there was a cause for which the  
16 charterer was at fault and delayed the voyage, that wouldn'  
17 be time that the charterer could get free from the owners,  
18 would it?

19 A If the owner would be not provided with a berth  
20 by the charterer, the charterer is penalized the demurrage.

21 Q Do you recall that there was an occasion in 1973  
22 when you made some calculations to attempt to calculate  
23 the amount of lost profit that the CAPETAN MATHIOS made or  
24 incurred by reason of the Tumaco casualty. And I show you  
25 a document that perhaps can assist you.

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2 MR. SHEINBAUM: I would like the original,  
3 the first document referred to as the calculation  
4 showing World Scale 400 and 415 as Exhibit Y,  
5 your Honor, and the second document that refreshed  
6 the witness' recollection, Exhibit Z.

7 MR. SMITH: Do you have additional copies?

8 MR. SHEINBAUM: Yes, sir.

9 THE COURT: Since there is no objection,  
10 they are admitted.

11 THE COURT CLERK: Defendant's Exhibits Y  
12 and Z received in evidence.

13 (Whereupon, Defendant's Exhibits Y and  
14 Z were received in evidence, as of this date.)

15 THE COURT: All right, go ahead.

16 MR. SHEINBAUM: Yes, your Honor.

17 BY MR. SHEINBAUM:

18 Q Mr. Hatgis, referring to the time charter with  
19 Gulf, do I understand correctly that the vessel entered  
20 the employment of Gulf under the time charter on January  
21 18, 1970?

22 A January 18?

23 Q January 18.

24 A Excuse me. January 18, 1970, at Puerto La  
25 Cruz.

Nicholas Hatgis--for Plaintiff--Recalled--Cross

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THE COURT: And it ran for three years from that date?

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THE WITNESS: No, it did run for eighteen months from that date, and it was extended for another two years.

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THE COURT: Thank you.

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BY MR. SHEINBAUM:

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Q Do you know what the charter market was, the spot charter market for voyage charters in April of 1969 or January of 1970?

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A No, I do not recall.

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Q Do I understand correctly that the decision to take the initial charter and the decision to take the two-year extension, to agree to those extensions, was made by someone outside of New York City on behalf of the owners or by the owners?

18

A Yes, of course.

19

Q You wouldn't have made that decision?

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A No, I wouldn't.

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Q Now, with respect to Exhibit 14, which relates to the question of what charter the vessel should go on after the conclusion of the Gulf charter and the calculations you made to come to some sort of opinion in that respect --

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A Yes.

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Q -- what, if anything, was the offer that Gulf submitted for a time charter of the vessel at that time?

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A There was no offer as such. There was discussion between Gulf Oil and our brokers, who, in turn, passed on the views of Gulf Oil to us. And they were talking on an equivalent of World Scale 200 for three years for this particular vessel. So, now, from there on it is mechanics.

Gulf Oil has a formula, and they put it in the computer and they say the World Scale 200 equates, is an equivalent rate of so many dollars time charter. So the ideas of Gulf Oil at the time for three years were World Scale 200.

Q If I understand you correctly, then, the time rate for a time charter that you believe was in the ballpark or in the possibility with Gulf was equivalent to what the vessel would make on a voyage charter operation proceeding at World Scale 200.

A No, the World Scale 200 represents the rate that the time charterer was interested in employing the vessel for a long period of time.

Now, in the tanker market, like any other market, you have your ups and downs. So they figure that with a 200 rate, we would average out -- well, considering



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whatever improvement the market has or whatever depression the market has, and it is not the rate for a specific short period -- they take this average or this rate then for longer.

Q What I am trying to get to is what that 200 scale would translate into in terms of profit per day for the owners of the CAPETAN MATHIOS, for example.

A Well, the 200 would show in that exhibit that I made.

Q Exhibit 14?

A Yes.

Q I think you have it in front of you. Could you tell us what you are talking about, then, when you mention the World Scale 200?

A World Scale on the basis of these exhibits would have meant about \$5900 profit per day, and the owners rejected this proposal because they felt that they could do better by keeping the vessel open, inasmuch as the market at the time was, the spot market was very high.

I must add that World Scale 200 was a very high rate for a time charter of two years.

Q Is it true that World Scale was significantly better than 200 for a voyage fixture, more than 200 for a voyage figure?

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A 400 at the time.

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Q 400?

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A Yes.

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Q Therefore, am I correct that that generally speaking, in a time when there is a high voyage market,

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a high voyage rate, in effect, the time charter rate would be significantly lower?

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A Again, significantly lower -- it would be lower.

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Q And, again, is it correct to say that as a general matter the vessel owner at a time when there is a high voyage market rate, in going to a time charter, can attain a known income for a certain amount of time and have the security of that kind of commitment, which he gives up for something by way of the rate, for that security, in relation to the insecurity of going into the spot market?

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A Well, this is, of course, purely economics. And it depends on each individual owner. Now, this particular vessel and this particular owner had the misfortune of chartering to Gulf Oil for eighteen months plus two years at the very low profit of 2,180, whereas at the same time the same owner, if he had the ship open in the spot market, would have made ten times better than what he did. So I suppose psychologically they said we got stuck once

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2 with a time charter, and we would rather not go again on  
3 period business and see what we can do with the open market,  
4 especially when the open market was at the 400 levels.

5 Q But you don't know what considerations went into  
6 the owners so deciding that. This is speculation.

7 A This is speculation, of course, because I heard  
8 them complaining that they were fixed to Gulf Oil for --  
9 now, not complaining, but they were unhappy about it  
10 because they had committed their vessel for that long  
11 period without making any appreciable profit.

12 Q Isn't it common knowledge in the chartering world,  
13 that some owners, that a number of ships available, will  
14 go into the voyage business with some of them and take  
15 time with some of them, to sort of hedge their bets?

16 A This is very speculative, what you are saying.  
17 So many owners and so many different thoughts, so I couldn't  
18 answer that in general.

19 Q Well, could you tell me whether you are aware  
20 that some owners do that who have a number of ships to  
21 operate?

22 A Of course. Some owners do that, and then you  
23 have owners like the Norweigan Rexton who did not do  
24 that, and he is now almost bankrupt. So you cannot  
25 generalize.



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Q Referring to Exhibit N, Mr. Hatgis, which is the cover note stating that the CAPETAN MATHIOS and the CAPETAN LUCAS were placed, insurance was placed on those vessels as part of a fleet of fifteen vessels?

A Yes.

Q Do you know what other vessels were in that fleet other than the six named on the cover note?

A Well, there would be the rest of the vessels managed, operated by Fafalios. You have the list.

Q That is indicated on that Greek shipping directory sheet.

A Yes.

Q Did you handle the charter on the tanker, the ANGELA F, which is one of those listed in the Greek shipping directory in September or October of 1973?

A '73?

Q Yes.

A Well, the vessel was fixed in June 15, 1973, to Hess Oil, and being that Hess Oil is an American, New York corporation, it was handled from New York by my office.

Q That is in June of '73 it was fixed.

A June, '73, she was fixed.

Q What is the dead weight capacity or the size of

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the ANGELA F?

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A She is 25,000 some tons.

4

Q And what was the rate?

5

A Twenty-six thousand.

6

Q I am sorry, I didn't mean to interrupt you.

7

A I am sorry.

8

Q What is the rate that was obtained for that time

9

charter?

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A I believe it was \$5.50.

11

Q \$5.50 per ton?

12

A For three years.

13

Would you tell me what that translates to in terms  
of World Scale, approximately?

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A At the time I don't recall offhand. I would have  
to look at the broker's record because he keeps the record  
of the equivalents, and I could obtain this information  
for you, but I would be guessing if I would tell you now.

16

17

Q So that the ANGELA F went on the time charter  
at \$5.50 per ton per month.

18

19

A Per month.

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Q At about the time that the CAPETAN MATHIOS was  
coming off time, going off charter; is that correct,  
going off voyage charter?

22

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A No, the ANGELA F, the business was concluded in

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1 June for an anticipated readiness of the vessel in October.

2 The CAPETAN MATHIOS was expected to be delivered  
3 to the owners anywhere between August, 1973, to November,  
4 1973. We didn't know at the time whether the charterers  
5 would exercise the right to add the off hire. We assumed  
6 that they would because of the market conditions.  
7

8 So when we fixed the ANGELA F in June, we expected  
9 delivery -- the CAPETAN MATHIOS would have been anywhere  
10 from August until November.

11 THE COURT: That is one month difference,  
12 then, between the two.

13 THE WITNESS: And again, we didn't know at  
14 the time whether they would exercise the month.

15 BY MR. SHEINBAUM:

16 Q Actually, with the October fixing, October  
17 delivery, was October 12 -- check me if I am wrong --  
18 delivery was, of the ANGELA F, was in the middle of that  
19 time sequence of the CAPETAN MATHIOS going off time charter?

20 A Yes, it was, but that is unrelated to the market.  
21 The fixture of the vessel took place on June 15. That  
22 was the date when the charter was concluded.

23 Q Which was about the same time you were making  
24 the calculations relative to the CAPETAN MATHIOS  
25 as to whether it should go to time or go to voyage.

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A Well, I don't know, sir.

Q Do I understand correctly, just for general information for the record, that in a time charter, the bunkers would be paid for by the charterer as distinguished from voyage charter, in which the bunkers would be paid for by the vessel owner?

A Correct.

Q Now, one of the other vessels listed in the Greek shipping directory under Fafalios, Limited, Homeric Agencies, and Fafalios Shipping, is a vessel called the MARIONGA. This is another vessel managed by Fafalios and represented by Homeric; is that correct?

A Correct.

Q Did you attend to the charters of the MARIONGA in September of 1973?

A One moment, please.

THE COURT: When you say "you," do you mean himself personally or the firm?

Q (Continuing) You yourself or your firm, and you can tell us which.

A The firm and myself, yes, sir.

Q Now, would you tell us with respect to the charter that was fixed on September 24, 1973, what that charter provided for?

1           A     Well, I see here from the scribblings that they  
2 have, that this vessel was fixed for two consecutive  
3 voyages to Chevron Oil Company, and she performed one voyage  
4 from Puerto Ordaz.

5           Q     Continue.

6           A     And the other voyage from Bago Grande to New  
7 York.

8           Q     Now, referring to Exhibit H, the charter in  
9 Exhibit H indicated September 24. Is that the charter you  
10 are referring to?

11          A     Yes, sir.

12          Q     When was the vessel tendered to begin those  
13 charters?

14          A     The first voyage on the vessel arrived at Puerto  
15 Ordaz on October 1st.

16          Q     1973?

17          A     1973.

18          Q     And did it proceed on its voyage without incident,  
19 or did it have a casualty?

20          A     She had, from what I recall now -- because there  
21 was a dry docking on the second voyage -- she had a grounding  
22 at Puerto Ordaz.

23          Q     And did she continue with that first voyage?

24          A     Yes, of course.  
25

1  
2 Q And did she perform properly on that first  
3 voyage?

4 A Properly, yes.

5 Q And did she proceed immediately into the second  
6 voyage on that charter?

7 A Correct.

8 Q And when was the second voyage completed?

9 A The second voyage, the vessel went back to Bago  
10 Grande, Venezuela, on the 13th of October. And she com-  
11 pleted the discharge in New York on the 24th of October.

12 Q Now, did she complete the second voyage without  
13 any problem?

14 A Yes, of course.

15 Q And did the vessel thereupon go into a dry dock  
16 in New York?

17 A Correct.

18 Q And did it stay in the dry dock from October 24,  
19 1973, to November 23, 1973?

20 - - -

21 (Continued on next page.)

22

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25



1                   A     No, she stayed from October 24, 1973, to November  
2  
3 18, 0035 hours, 1973.

4                   Q     And where and who made the decision to go into  
5 the yard at that time for the MARIONGA?

6                   A     After the grounding, and inasmuch as the vessel  
7 had other work to do, other maintenance work to do requiring  
8 dry dock, and possibly, I have no recollection now, but if  
9 she was due for dry-docking by classification I am not  
10 aware. But the grounding alone, the owners probably for  
11 that reason decided to dry dock her. But I don't recall  
12 offhand the details now. It is three years ago.

13                  Q     The decision was made abroad?

14                  A     Yes, of course.

15                  Q     Did the MARIONGA operate for two voyages we have  
16 discussed with a valid certificate of seaworthiness?

17                  A     Yes.

18                  Q     Now, with respect to the CAPETAN LUCAS, which  
19 is another of the ships managed by Fafalios, Limited, do  
20 you know what kind of charter, if any, the CAPETAN LUCAS  
21 was on in November, mid-November of 1973?

22                  A     I recall that this vessel was fixed for one  
23 year or two years consecutive voyages in London, and she  
24 was being operated out of London. I don't offhand recall  
25 particulars of this vessel. The only thing I remember

*Nicholas Hatgis—for Plaintiff—Recalled—Cross*

is that she was sold for delivery in Singapore, and her last voyage she came to Los Angeles to discharge and return to Singapore to be delivered to the owners. But I don't recall if that is the original two-year consecutive voyage charter or not.

Q Do you know when she was sold?

A Well, she was sold right after the, I believe either the last part of '73 or in '74.

Q In any event, in October of 1973 she would still be under the same owners as she was in September of 1973?

A Yes, she must have been. Of course, I say yes. I assume so. I can check with London and I can verify that answer exactly.

Q If you would like to do that and your counsel wants it on the record, I would have no objection to it.

I show you Exhibit R, Mr. Hatgis, which are copies of the Lloyd's Shipping Index for late October and mid-October to mid-November 1973 and ask you are you familiar with the book, the Lloyd's Shipping Index at all?

A Yes, of course.

Q Does that book show the position of the vessels and the voyages that the vessel was taking?

A It does. It is not always very accurate, or it

*Nicholas Hatgis—for Plaintiff—Recalled—Cross*

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is not always up to date. But it is a good index to follow.

Q With respect to the CAPETAN LUCAS, there are entries in there that indicate that it was in Singapore Roads. Now, the CAPETAN LUCAS, being a tanker, would you have any opinion as to whether it delivered cargo to Singapore Roads, or would carry cargo from Singapore Roads?

A She must have been repairing at Singapore Roads, and the reason I say this -- and again, this vessel, being that she was not operating out of New York, her movements are very vague to me. But I repeat, the port engineer who came to attend the CAPETAN MATHIOS, that was in April.

Q April of 1973?

A We had another repair, and he came straight from Singapore. But, in any event, I do recall vaguely that there were repairs in Singapore, something wrong with the boilers and they retubed some boilers.

Q Does that Lloyd's Shipping Index show that the CAPETAN LUCAS was in Singapore from October 15 to November 15, 1973?

A The way I read it, it shows that the vessel arrived in Singapore on the 25th of September, and then they show her having arrived again on October 16 from Misosima, Japan. And then the next position is that she sailed November 15, I suppose, from Singapore to Lusambu



*Nicholas Hatgis—for Plaintiff—Recalled—Cross*

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2 (phonetic), wherever that is.

3

4 Q Now, with respect to the market conditions in  
5 1973, the tanker market conditions in September 1973,  
6 is it fair to say that the market in September 1973 did  
7 peak? Is that a fair estimate?

8

9 A 1973?

10

11 Q Yes.

12

13 A Yes, of course.

14

15 Q And is it fair to say that the market was generally  
16 rising up to that point because of the continuing demand  
17 for energy? The continuing demand for crude increased the  
18 demand for the bottoms, or vessels, and the natural law of  
19 economics pushed up the rates.

20

21 A Correct.

22

23 Q And is it also true that the way the tanker market  
24 reacted to the Arab-Israeli or Yom Kippur War was that there  
25 continued a psychological condition to keep the market high  
for some short period of time after the war. And then with  
the Arab embargo and the cut in production in the oil-  
producing nations, this completely changed the market con-  
ditions, and the market conditions took a precipitous fall.

26

27 Is that a fair description as well?

28

29 A Yes.

30

31 Q Now, is it also true that the market, as a result,

*Nicholas Hatgis—for Plaintiff—Recalled—Cross*

1

2 became unstable as the rates began to fall?

3 A Yes.

4 Q Would it also be fair to say that from late  
5 October to early November, there was a period of radical  
6 change in the market rate?

7 A I wouldn't say it was radical, but the market  
8 started showing definite signs of weaknesses.

9 Q Now, we have discussed the rates for early  
10 October when you discussed the 450 range. Do you recall  
11 that?

12 A Yes.

13 Q Now, isn't it true that when the market was at  
14 around 400 or 450, the range of reported fixtures was relative-  
15 ly small. Do you follow me?

16 A I follow you, but I didn't make a point to notice  
17 that.

18 Q Would you look at the Seabroker, Inc., report  
19 for, let's say, July of 1973. July 2, for example.

20 A Yes.

21 Q Now, July 2 there are two reports of vessels  
22 fixed for the Caribbean. What were the tonnages of those  
23 vessels?

24 A July 2, I must assume, yes, there were two vessels,  
25 one 19,000 tons and the other 38,000 tons.

*Nicholas Hatgis—for Plaintiff—Recalled—Cross*

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Q Now, those were fixed for 330 World Scale and  
332 1/2; is that correct?

A Correct.

Q Now, let's go up a month to August 1.

A Yes.

Q Now, the range of fixtures on that day from  
280 to 305?

A Yes.

Q And let's skip another month. August 29, were  
the rates there from 300 to 310?

A You said August?

Q August 29.

A Yes, sir.

Q And October 1, were the rates from 390 to 410?

A Yes.

Q So that the dates that we have just reviewed, they  
reflect a relatively small spread of the rates reported?

A From 330 to 410.

Q What I am suggesting is at any one day, at any  
one day the point spread was only from eight to twenty-five  
points.

A I see. Yes.

Q You follow me?

A On this particular date.



*Nicholas Hatgis—for Plaintiff—Recalled—Cross*

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Q On those particular dates?

A Yes.

Q Now, that reflects a stable market for those days, does it not?

A Yes.

Q Now, turning to October 26, for example, we are in the late part of October 1973. There was a low of 250 and a high of 366 for comparable voyages.

Again, I am trying to keep to the Caribbean trade, United States-Caribbean trade.

A Yes.

Q And October 29, there was a spread of 275 to 480?

A Yes.

Q And October 30, there was a spread from 300 to 480?

A Yes.

Q And October 31 there was a spread from 265 to 500?

A Yes.

Q Now, don't these latter ones from October 26, October 29, October 30, October 31 indicate that at that time there was a very unstable market?

A I would say that the market --

THE COURT: Well, you must answer directly,

*Nicholas Hatgis—for Plaintiff—Recalled—Cross*

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please, yes or no.

3

THE WITNESS: I am sorry.

4

A (Continuing) Yes, but as I mentioned earlier,

5

the tanker market is a very psychological market.

6

THE COURT: Whatever the reason, it is a

7

fact that it was unstable on those days?

8

THE WITNESS: On this particular date,

9

October 31, there was only one fixture at 500.

10

The rest of them are between 300 and 275.

11

BY MR. SHEINBAUM:

12

Q Yes, now, referring to Plaintiff's Exhibit 17,

13

which I hand you, Mr. Hatgis, and that is the letter that

14

is from the owners to Gulf Oil Corporation. That letter is

15

dated May 30, 1972, and it states:

16

"In reply to your telegram of May 26, please

17

note that owners tentative schedule for the next

18

dry-docking of the subject vessel is for the

19

Summer of 1973."

20

Now, if I understand your testimony that you gave

21

to the questions that Mr. Smith asked you with respect to

22

this letter, your explanation of the letter is that the

23

owners intended to dry-dock the vessel at the conclusion

24

of the time charter with Gulf, as I understand your testimony.

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Is that correct?

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A Yes. The owners were going to dry-dock. In other words, they were not going to dry-dock during the Gulf charter. That was in essence what they wanted to say. They didn't have to dry-dock her for that period, so they were not. They gave this information to Gulf so that Gulf would schedule the ship accordingly, and they would know that they would have no off hire for normal dry-docking.

Of course, force majeure is accepted, and you never know when you have to dry-dock.

Q Are you saying that Exhibit 17 did not indicate that the vessel owners wanted, in fact, to dry-dock the vessel at the end of the Gulf charter?

A The owners -- I must say that perhaps --

THE COURT: You don't answer the question directly. And this type of thing you could answer yes or no, and then make any comments you wish about it.

BY MR. SHEINBAUM:

Q Yes, isn't it true that the vessel owners in this letter, Exhibit 17, are advising the charterer that their tentative schedule is to, in fact, dry-dock the vessel at the conclusion, or in the Summer of 1973?

A Yes, they will dry-dock at the Summer of 1973.

Q Now, do I understand your understanding to have



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been that this meant that the vessel owners intended to dry-dock at the conclusion of the Gulf charter?

A Yes, they didn't have to dry-dock at the conclusion.

Q I am only asking you if that is your understanding.

A Yes, of course.

Q Do you recall testifying in New York at your deposition and giving the following answers to the following questions?

THE COURT: What is the date of the deposition?

MR. SHEINBAUM: The date of the deposition, Your Honor, was 25 March 1975.

THE COURT: You do recall the occasion?

THE WITNESS: Yes, of course.

MR. SHEINBAUM: The question related to the letter, Exhibit 17, Your Honor.

BY MR. SHEINBAUM:

Q Page 63, at the bottom of the page, Line 21.

"Question: Why would you have written the letter of May 30 indicating there was a tentative schedule for the dry-docking in the Summer of 1973?

"Answer: The reason, there is no specific reason. We wrote it, Gulf Oil, to keep the records up to date. They keep asking us regularly when we expect to dry-dock.

As a matter of policy for their convenience, and there

1 was -- I can't understand why the owners gave this  
2 date because the vessel was scheduled to dry-dock  
3 in 1974.

4 "Question: You cannot recall any specific  
5 thing that was necessary to be done in dry-dock for  
6 the Summer of 1973?

7 "Answer: No, because she had just dry-docked.  
8 She had just finished dry-docking."

9 Now, my question is do you recall those answers  
10 to those questions?

11 A I recall.

12 Q What happened between March, 1975 to today to  
13 refresh your recollection as to why that letter was  
14 written?

15 A 1975?

16 Q Which is the date you gave --

17 A March 1975?

18 Q Which is the date you gave your testimony?

19 A I was puzzled about the reason why this letter  
20 was sent out, and I communicated with the owners, and I asked  
21 them why they instructed me to answer in this manner. And --

22 THE COURT: Before your deposition?

23 THE WITNESS: After my deposition, when I  
24 was asked --  
25

*Nicholas Hatgis—for Plaintiff—Recalled—Cross*

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THE COURT: You made this call after the letter was actually written.

3

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THE WITNESS: No, the letter was written three years ago in 1972. My deposition was in '75.

7

THE COURT: All right.

8

A (Continuing) And I was asked why this letter was sent. And I gave the answer that Mr. Sheinbaum just read us, and I was especially puzzled why we wrote this letter. And I asked the owners, in talking to them on other matters, and they mentioned that the reason behind this letter was to tell, in other words, Gulf Oil that we do not plan to dry-dock the vessel during the currency of the charter party.

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19

It was worded improperly on my part. I should have said instead that we do not intend to dry-dock during the currency of the charter party. That would have been the answer to give at the time.

20

21

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THE COURT: How do you think you came about making an error like that? That is an important point?

23

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THE WITNESS: It is not important because this is a very routine question that everybody asks from time to time. I check with the owner



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what should we tell them.

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THE COURT: When you got the instructions to send this letter, if there was any question about it in your mind, you should have called them as to what they meant by it.

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THE WITNESS: No. Well, I asked them when do we plan to dry-dock the ship. They said after the summer.

10

11

THE COURT: They didn't say anything more than that to you at that time?

12

13

THE WITNESS: No, no, and then I asked them why.

14

15

THE COURT: You asked them why long later. That is the point. Go ahead.

16

BY MR. SHEINBAUM:

17

18

19

Q Do I understand correctly that the CAPETAN MATHIOS was actually in the shipyard on dry-dock in May, April of 1972?

20

21

22

A She was dry-docked in New York from March 21, 1972, until April 26, 1972. That is the thirty-six days we have off hire in that statement.

23

24

25

Q Now, with respect to the work that was done in that yard period, do you remember what kind of work was done?

1

2           A     Yes, primarily there was damage to the steering  
3 gear on the vessel.

4

5           Q     Do I understand correctly that as a result of  
6 the dry-docking of the vessel in 1972, at which time  
7 certain classification inspections were made, the vessel  
8 did not have to go to dry-dock again until 1974, approxi-  
9 mately two years after the 1972 dry-dock insofar as  
classification inspections were concerned?

10

A     Correct.

11

12           Q     And am I also correct that as a result of the  
13 repair period of the CAPETAN MATHIOS in March of 1973,  
14 classification inspections were nevertheless carried out  
to that vessel while in dry-dock.

15

16                     And as a result, as of the time the CAPETAN  
17 MATHIOS left the dry-dock in 1973, April of 1973, the  
vessel no longer had to go into dry-dock in 1974?

18

A     Yes, she had two years clean bill of health.

19

20           Q     So as a result of the repair period with CAPETAN  
21 MATHIOS, you pushed ahead a year the time the vessel would  
again have to go into dry-dock for classifications?

22

23           A     For classification. The work the classification  
24 did during the repair period of the Tumaco accident at  
Hoboken had nothing to do with any classification require-  
25 ments. We had outstanding requirements. The two

1 services that were handled are normal surveys that you can  
2 handle during loading or discharging of the vessel. We  
3 have washed the bottom, which is a routine situation which  
4 we do all the time. The load line survey, we do it while  
5 loading or discharging.

7 Q But a dry-dock survey is necessary every two  
8 years?

9 A Yes.

10 Q And a dry-dock survey was made for classification  
11 purposes during March 1973 repair period, which meant that  
12 you didn't have to go into dry-dock as of leaving, as of  
13 the time of leaving the dry-dock in March of 1973 until  
14 March of 1975?

15 A Yes, this was an automatic thing. We didn't  
16 ask for it. It is automatic.

17 THE COURT: Well, the fact is that the  
18 time for the next dry-docking was extended  
19 then by a year.

20 THE WITNESS: By a year.

21 THE COURT: All right, go ahead.

22 BY MR. SHEINBAUM:

23 Q Now, with respect to the negotiations of the  
24 time charter with Gulf, which is Exhibit 14, I believe,  
25 who prepared the form of the time charter?

. . . . .



1

THE COURT: Continue, please, Mr. Sheinbaum.

2

MR. SHEINBAUM: Thank you, your Honor.

3

BY MR. SHEINBAUM:

4

Q With respect to Exhibit 24, Mr. Hatgis, which is placed in front of you, which is the time charter, who prepared -- the first page of that is the addendum which extended the time of the charter; is that correct?

8

A Yes.

9

Q And that addendum consists of two pages, three pages, I should say, and then there is another addendum dated 13 November 1969.

12

A Yes.

13

Q And then there is the basic charter.

14

A Yes.

15

Q Now, referring to the basic tanker time charter party, as it is called, who prepared that form?

17

A You mean the Texaco time form?

18

Q Yes.

19

A Gulf Oil.

20

Q Now, as to the forms used in time chartering generally, would the procedure be that a form is proposed by one of the two parties, and the brokers cross out or add certain things that may be by custom, and that varies. Things are then negotiated in or out of the contract

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1 between the owner and the charterer.

2 A The form to be used is determined by the form  
3 normally used by the various oil companies. They all have  
4 a preference in forms. So normally, the owners have  
5 nothing to say about the forms. It is a point which they  
6 never negotiate.

7 If Texaco wants their own form, they have it.

8 If Esso wants their own form, they have it.

9 In the case of Gulf Oil, not having their own  
10 charter party form, they use Texaco's form.

11 Now, on the various details that you asked me  
12 and the crossing off and so forth, these, of course, are  
13 conducted by negotiation between the owner, the charterers  
14 through the broker.

15 Q So that you start out with a form proposed by  
16 the charterer, if it is an oil company, as it was in this  
17 instance, and then you start negotiating provisions in and  
18 out?

19 A Yes.

20 Q Now, with respect to the charter, do I understand  
21 correctly that Paragraph 1C is the off-hire extension  
22 period clause which Gulf exercised to extend the charter  
23 for the off-hire during the time charter?

24 THE COURT: Excuse me just one moment. Is  
25

1 this the file copy or is this a copy that I  
2 might keep?

3 MR. SHEINBAUM: You may keep it, yes, your  
4 Honor. The witness has the original in front  
5 of him.

6  
7 BY MR. SHEINBAUM:

8 Q So Clause 10 would be the paragraph permitting  
9 Gulf to exercise an option to extend off hire.

10 A Right.

11 Q Now, did anyone to your knowledge during the  
12 negotiations leading up to the execution of this agreement  
13 on behalf of the owners attempt to negotiate out Clause 10  
14 or modify Clause 10 in any way as presented?

15 A No, they did not.

16 Q Now, with respect to Paragraph 8 of the charter  
17 agreement, is it true that at the conclusion of the charter  
18 with Gulf; namely, in mid-November, 1973, a dispute arose  
19 between Gulf and the owners as to when the vessel had to  
20 be re-delivered at the completion of all the extension  
21 period.

22 A Yes.

23 Q Now, do I understand correctly that what happened  
24 was that the vessel had discharged in a United States  
25 East Coast port, and that it was prior to the date which



1  
2 was consistent with the conclusion of the extension period,  
3 and the charterer wanted to make another voyage. And  
4 the vessel owner objected to that.

5 A Correct.

6 Q Now, referring to Exhibit O, which I will place  
7 before you, are those the telexes or messages that consist  
8 of the messages relating to that dispute?

9 A Correct.

10 MR. SHEINBAUM: Now, just so the record is  
11 clear, your Honor, I noted that there is one  
12 message that is apparently missing. I do not  
13 have it. It is a November 20 message. That  
14 should be the fourth page, but I do not have it.  
15 It is a message from Gulf to Homeric. I don't  
16 say that it wasn't produced to me. I am not  
17 suggesting that. But if counsel would want to --

18 MR. SMITH: Mr. Hatgis has all of the  
19 original telexes and messages.

20 MR. SHEINBAUM: Possibly he can assist us,  
21 then.

22 BY MR. SHEINBAUM:

23 Q I don't want to make it appear that I am trying  
24 to leave out one message, but in the sequence there seems  
25 to be one missing. That would be a November 20 message

. . . . .

1 position taken by your company regarding  
2 expiration of CAPETAN MATHIOS charter period.  
3 Owners again maintain their position that you  
4 are entitled to the use of subject vessel up  
5 to 0116 hours November 27, 1973. Vessel  
6 ETA basis Puerto La Cruz PM November 25 and  
7 thus impossible perform another voyage. As  
8 you have again failed to declare port of free  
9 delivery owners are instructing vessel to pro-  
10 ceed Aruba for redelivery and have arranged with  
11 Sayboldt to carry out redelivery."  
12

13 Signed Homeric.

14 BY MR. SHEINBAUM:

15 Q Now, the result of this dispute was that the  
16 owner decided that Gulf was not entitled to another  
17 voyage. They decided that on their own, and they had the  
18 vessel proceed in accordance with the owner's instructions;  
19 is that correct?

20 A Yes, the owners decided in accordance with  
21 consultation with the P&I Club and their attorneys that  
22 they were legally right in refusing to perform an extra  
23 voyage for Gulf Oil, and the insistence of Gulf Oil was  
24 due to the very high market, and they wanted to get as  
25 much as possible out of the vessel.

1  
2 The result, of course, was that the vessel was  
3 redelivered to Gulf Oil normally without any further  
4 trouble, Gulf realizing that they had to deliver the vessel.

5 MR. SHEINBAUM: I move to strike the  
6 conclusion as to what Gulf realized.

7 THE COURT: Yes, I think so. That is  
8 stricken.

9 BY MR. SHEINBAUM:

10 Q Isn't it true, Mr. Hatgis, that if the vessel  
11 owner had accepted the position of Gulf in its interpreta-  
12 tion of Clause 8 of the time charter party, that meant  
13 that the CAPETAN MATHIOS would have come back to the owners  
14 of the CAPETAN MATHIOS even two weeks later than it actually  
15 did, approximately?

16 A Yes, of course.

17 Q Finally, that therefore was a matter for nego-  
18 tiation between Gulf and the charterer as to how Clause  
19 8 was going to be interpreted; is that correct?

20 A I didn't get your question.

21 Q Is it true that between Gulf and the owners --  
22 I beg your pardon -- the question of how Clause 8 was  
23 going to be interpreted, which side was right, was a  
24 matter of negotiation between the charterer and the owner.

25 A Correct.



1

2 Q And in this instance, the owner decided that  
3 the charterer was incorrect and the vessel proceeded as you  
4 have earlier indicated.

5

A Yes.

6

Q Now, am I correct that if the repair period  
7 of March '73 was required by reason of a casualty for  
8 which the charterer was responsible, that Gulf would not  
9 have been entitled to any off hire for that repair period?

10

Do you want that read back?

11

A Yes.

12

(The pending question was read.)

13

THE COURT: Answer it yes or no. It is a

14

yes or no question.

15

A Under the terms of the charter party, Gulf Oil  
16 is entitled to off-hire period for any off hire.

17

Q My question is, would that repair period --

18

A Yes.

19

Q -- that the vessel was under, if that repair  
20 period was brought about by the fault of Gulf Oil Corpora-  
21 tion, would that off hire have been properly off hire under  
22 the charter party?

23

A Yes.

24

Q So that your testimony is that under the charter  
25 party, even if Gulf was responsible for the casualty at

. . . . .

1 BY MR. SHEINBAUM:

2 Q A similar what?

3 A A similar situation.

4 Q To your knowledge, has any claim ever been made  
5 against Gulf Oil Corporation that the repair period for  
6 the repairs of the CAPETAN MATHIOS in March and April of  
7 1973 was not properly an off-hire period under the time  
8 charter?

9 A I must ask for your forgiveness. Would you read  
10 it back, please?

11 (The pending question was read.)

12 Q To your knowledge, has any claim been made on  
13 behalf of the CAPETAN MATHIOS owners by anyone against  
14 Gulf Oil Corporation to the effect that the repair period  
15 of the CAPETAN MATHIOS under the time charter, the repair  
16 period being that of March, April, 1973, was not properly  
17 a period that the vessel should have been considered to  
18 be off hire under the charter?

19 A No.

20 MR. SHEINBAUM: I have nothing further, your  
21 Honor.

22 THE COURT: Redirect.

23 - - -

24 (Continued on next page.)



11/1

2           Q     Now, on Friday, Mr. Hatgis, Mr. Sheinbaum was  
3 asking you some hypothetical questions about making a  
4 voyage for Gulf and when it would have been completed if  
5 there had been no off-hire as a result of the Tumaco in-  
6 cident. Now, did you at my request over the weekend make  
7 a calculation with respect to when the vessel would have  
8 been required to be redelivered to the owner if the  
9 Tumaco accident, casualty, had not occurred?

10          A     Yes, I did.

11          Q     Do you have it with you now?

12          A     Yes, I do.

13                   MR. SMITH: Your Honor, I would like to  
14 have that marked as an exhibit. I have the  
15 original here. I will hand it up to Your Honor.

16                   THE COURT CLERK: Defendant's Exhibit BA  
17 marked for identification.

18                   MR. SHEINBAUM: May I see it?

19                   MR. SMITH: That will be a plaintiff's  
20 exhibit.

21                   THE COURT CLERK: It is a plaintiff's exhibit.

22 BY MR. SMITH:

23          Q     Now, when was the vessel, according to your cal-  
24 culation, be required to be redelivered to the owner?

25                   THE COURT: I take it there is no objection.



1

2

MR. SHEINBAUM: I haven't reviewed it yet,

3

Your Honor. It is the first time I have seen it.

4

THE COURT: Yes, go ahead.

5

BY MR. SMITH:

6

Q Shall I proceed?

7

A Yes.

8

Q When was the vessel required to be redelivered

9

under the terms of the charter party if the Tumaco casualty

10

had not occurred?

11

A It would be October 31st, 20 hours, 59 minutes.

12

Q All right, now, according to your book as you

13

testified on Friday, the vessel completed the voyage to

14

San Juan on October 25, 1973, at 2345 hours, is that correct?

15

A Yes, correct.

16

Q All right, now, how many days were left on the

17

charter due Gulf at that time?

18

A Five days, 21 hours and 16 minutes.

19

Q Now, how long was the voyage from San Juan to

20

Balao, Ecuador, have taken? How long did it take? That

21

was the voyage that was actually made, isn't that correct?

22

A Yes. It took exactly 13 days and 12 hours.

23

Q Now, under the terms of the charter party,

24

would you have allowed Gulf to make that voyage if you

25

were not required to extend the charter party?

. . . . .

*Nicholas Hatgis—for Plaintiff—Recalled—Redirect*

1

2 BY MR. SMITH:

3

Q There was some testimony this morning about  
4 CAPETAN LUCAS, and I have a piece of paper which apparently  
5 is in your handwriting. Would you explain to the Court  
6 what that piece of paper is?

7

A Yes, regarding the CAPETAN LUCAS and the dates  
8 when she was in Los Angeles and Singapore and the cost of  
9 bunkers as I mention to be \$120. I did telephone my office  
10 to get the more exact movements of the vessel at that  
11 particular period, so the vessel was in Singapore from  
12 October 16 until November 15, repairing. She left Singapore  
13 November 15 in the morning, and she arrived the same evening  
14 at the loading port of Indonesia called Palau Sabu, from where  
15 she sailed the 16th of November for Wilmington, California,  
16 which is the Los Angeles area.

17

She arrived there December 18 and sailed from Los  
18 Angeles December 22. That is the reason the vessel was so  
19 late in December, which is the reason why the bunkers were  
20 so scarce at that time.

21

Q All right, now, you have recalculated Exhibit  
22 33 during the lunch hour with the new bunker prices; is  
23 that correct?

24

A Yes.

25

Q And you now calculate with the bunker prices that

. . . . .

1

2

received in evidence, as of this date.)

3

MR. SMITH: That concludes my direct

4

examination.

5

THE COURT: Recross.

6

RECROSS-EXAMINATION

7

BY MR. SHEINBAUM:

8

Q Looking at Exhibit 33, Mr. Hatgis, I beg your

9

pardon, there is a number of sixteen days put down for

10

the second voyage.

11

Now, do I understand correctly that the voyage

12

would normally take about thirteen days?

13

A Yes.

14

Q And there would have been three days demurrage?

15

A Yes.

16

Q If it in fact took sixteen days, approximately --

17

A Yes, well, the voyage took sixteen days. This

18

is from the book.

19

Q Yes, but what we are talking about here is trying

20

to imagine if such a voyage had been contracted for on a

21

voyage charter basis between Gulf Oil Corporation and the

22

owners of the vessel; is that correct?

23

A Yes.

24

Q Now, how much demurrage was obtained or would

25

have been obtained on that voyage for the three extra days?

. . . . .



1 THE COURT: Well, I don't have 35.

2 MR. SHEINBAUM: Because we are going through  
3 these two exhibits together, in a sense.

4 BY MR. SHEINBAUM:

5 Q Mr. Hatgis, if I understand you correctly, the  
6 average World Scale 375 is based upon the requirement to  
7 return the vessel about October 25; is that correct?

8 A Correct.

9 Q Now, if that isn't correct, this entire calcula-  
10 tion falls, does it not, is incorrect?

11 A Why, I don't --

12 Q Because there would be a different World Scale  
13 than 375; isn't that true?

14 In other words, what I am suggesting is if  
15 October 25th for the return date is wrong and the vessel  
16 would have had to be returned approximately two weeks  
17 later like we went over Friday, this would be wrong,  
18 referring to Exhibit 35; is that correct?

19 A Yes, assuming that the --

20 THE COURT: Assuming that the return date  
21 is inaccurate?

22 THE WITNESS: Yes.

23 THE COURT: And, of course, the exhibit would  
24 have to go down.

25

1  
2 THE WITNESS: Yes.

3 BY MR. SHEINBAUM:

4 Q. And the return date as being around October 25  
5 is because of the information on Exhibit 32?

6 A Correct.

7 Q Isn't that right? Now, let's get to Exhibit 32.

8 May I call your attention to the fact you have  
9 Exhibit 32 in front of you?

10 A Yes, here it is.

11 Q May I call your attention --

12 THE COURT: Don't hesitate to take whatever  
13 time you need. I know I get terribly frustrated  
14 if I have a lot of papers around and can't find  
15 them. If you need time, don't hesitate to say  
16 so.

17 THE WITNESS: Thank you, your Honor.

18 THE COURT: All right.

19 Q (Continuing) May I call your attention to Number  
20 4, and may I suggest that the mathematics of subtracting  
1 October 31 by October 25th, being five days -- I beg  
2 your pardon, I beg your pardon. It is five days, twenty-  
3 one hours, and sixteen minutes; is that correct?

4 A Yes.

5 Q Now, let me ask you this: In Number 2, you

1

2 have one month more or less, thirty days. Now, the charter  
3 party says one month more or less, does it not?

4

A Yes.

5

Q It doesn't say thirty days, does it?

6

A No.

7

Q In fact, the original charter read with respect  
8 to the eighteen month period fourteen days more or less.

9

A (Nods head.)

10

Q But with respect to the two year proposition,  
11 the two year extension, it read one month more or less;  
12 is that correct?

13

A Yes.

14

Q So when you put in a charter one month more or  
15 less, you mean one month. You don't mean thirty days; is  
16 that correct?

17

A Well, it is assumed, we assume it in the trade  
18 as being thirty days. For a shorter period we have it  
19 normally fifteen days more or less.

20

For a longer period it is one month more or less.

21

Q Are you suggesting that -- excuse me, I didn't  
22 want to interrupt you. Finish your answer.

23

A Yes.

24

Q Are you suggesting that when a charter says one  
25 month more or less and the one month is measured from



1 September 24 that the charterer is entitled to keep it only  
2 to October 23rd rather than October 24th?

3 A Well, we take --

4 THE COURT: Yes or no.

5 A Yes.

6 Q Are you suggesting that?

7 A Yes, we are suggesting, inasmuch as we take as  
8 a yardstick the thirty-day month, otherwise we could  
9 divide 365 days of the year by twelve months and get 30.4  
10 days to a month. But whenever we estimate these for one  
11 month more or less, we estimate it on the basis of thirty  
12 days.

13 Q All right, then, let me ask you to assume some-  
14 thing.

15 Mr. Hatgis, let's assume that this contract,  
16 the charter party, the time charter party, which is  
17 Exhibit H, when it says one month more or less, it means  
18 one month, not thirty days. Assuming that, then isn't  
19 it true that if you measured the thirty-eight days,  
20 October 24th rather than September 24th, then the vessel  
21 would have had to be returned November 1, 1973, and not  
22 October 31st, 1973.

23 A Correct.

24 Q And isn't it also true, therefore, that if the  
25

1 vessel would have had to be returned November 1, 1973,  
2 instead of October 31, 1973, based upon the actual time  
3 taken on the voyage, they would have been entitled to an  
4 extra voyage?

5 A No.

6 Q All right, let's explore that.

7 If I understand you correctly -- and looking at  
8 your figures here -- let's put in the date of November 1  
9 for the date of October 31 in Item 4.

10 A Correct.

11 Q Now, that would mean that six days, twenty-one  
12 hours, and sixteen minutes were available between the time  
13 the vessel left on the last voyage until the time that the  
14 charter party would have expired.

15 A Correct.

16 Q Now, the vessel actually took thirteen days,  
17 twelve hours; is that correct?

18 A Yes.

19 Q Now, isn't it a fact that fifty percent of thirteen  
20 days, twelve hours, is less than six days, twenty-one  
21 hours, and sixteen minutes?

22 A Yes.

23 Q And if the time available was more than half the  
24 time to take the voyage, they would have been entitled to  
25



1 the voyage; is that correct?

2 A No.

3 Q Now, why wouldn't they have been entitled to the  
4 voyage?

5 A Well, on this point -- and the result was the  
6 exchanges of telexes mentioned earlier between Gulf Oil  
7 and the owners, the owners had investigated in London with  
8 the P&I Club and were advised by the P&I Club that they  
9 should not proceed with the voyage unless there was  
10 sufficient time to complete the voyage. So on the basis  
11 of this information received from London, the owners felt  
12 that there would not be sufficient time to complete the  
13 voyage, and they shouldn't be entitled to the use of the  
14 vessel.  
15

16 THE COURT: I do not understand that  
17 answer, but I guess the impression that your  
18 explanation of it is that the owners procured  
19 some information from somebody as yet undis-  
20 closed concerning the matter, and that based  
21 on the information they got from an unknown  
22 person, they concluded as they did. Am I  
23 quoting you in another way properly?

24 THE WITNESS: No, your Honor.

25 The information they got was from the



1  
2 Protection and Indemnity Club in London. They  
3 are the insurers to provide legal advice to the  
4 owners, and they have -- it is a mutual organiza-  
5 tion in London. All the owners subscribe to this  
6 organization, and they provide us with all kinds  
7 of legal opinions.

8 THE COURT: Then we have the identity of  
9 who gave that advice.

10 THE WITNESS: Yes, it is the Bilbrough  
11 Club.

12 THE COURT: They were depending on the  
13 advice of counsel in London, as I understand it.

14 All right, go ahead.

15 BY MR. SHEINBAUM:

16 Q So that you today believe that if -- you believe  
17 that it is not so that simply because more than one-half  
18 the time was available for an additional voyage you would  
19 have to give that voyage.

20 A I believe that we shouldn't give the voyage.

21 Q Referring to Page 66 of your deposition, Mr.  
22 Hatgis --

23 THE COURT: The same deposition, same time?

24 MR. SHEINBAUM: Yes, your Honor, Page 66.

25 THE COURT: March of this year?

1

MR. SHEINBAUM: Yes, Your Honor.

2

THE COURT: Not long ago.

3

MR. SHEINBAUM: Yes, Your Honor.

4

BY MR. SHEINBAUM:

5

Q And the questions are, by myself:

6

"Question: I notice in the correspondence and file relative to the Gulf charter that there was a disagreement at the conclusion of the charter as to whether the charterer was entitled to another voyage under the thirty days more or less provision.

11

"Mr. Smith: That was an interpretation of the termination date of the charter, not more or less thirty days.

14

"Mr. Sheinbaum: I am sorry.

15

"Question: An interpretation of the charter?

16

"Answer: That's right.

17

"Question: What charter provision was the disagreement over the interpretation on?

19

"Mr. Smith: This is a legal question, and I advised him on it at the time and told him he did not have to make another voyage. He did not because, as I recall, what was it, a day and a half left.

23

"The Witness: They had a day and a half left.

24

"Mr. Smith: And the rule is that if you have

25



1  
2 more than half the time left necessary for the voyage,  
3 you are required to make it. And they were requiring a  
4 voyage which was another two weeks or something like that.  
5 So I said absolutely not. They are not entitled to get that  
6 extra time."

7 Now, are you saying that you received information  
8 contrary to this?

9 A When we checked with London on this --

10 THE COURT: Did you receive information con-  
11 trary to what Mr. Smith stated at the time of  
12 this deposition?

13 THE WITNESS: From London.

14 BY MR. SHEINBAUM:

15 Q You did.

16 A From London.

17 THE COURT: You don't say yes or no.

18 THE WITNESS: The owners, yes.

19 THE COURT: You got some advice from London  
20 that was contrary to what Mr. Smith stated?

21 THE WITNESS: Yes.

22 THE COURT: That is what I am trying to get  
23 you to say. Yes or no.

24 THE WITNESS: Yes.

25



1

2

BY MR. SHEINBAUM:

3

4

5

Q And do I understand you correctly that it was from the owners or was it from P&I, which is the insurance club?

6

7

8

9

A From the owners through, after consultation.

THE COURT: They said that to you, but you

don't know that that is true, of course. It

was just their statement.

10

THE WITNESS: They advised me that.

11

THE COURT: Yes, all right.

12

BY MR. SHEINBAUM:

13

14

15

16

17

18

19

20

Q Finally, Mr. Hatgis, with respect to Exhibit 32, your conclusion separate and apart from the six days or five days, or whatever, your conclusion that the vessel would have come back October 25 was based upon the assumption that if Gulf had the ship and had to return it, let's say, October 31 or November 1, would have taken, would have tried to make the exact same voyage that they did make; is that correct?

21

It is correct, but they made the same voyage.

22

23

24

25

Q Yes, they made it, but isn't it a fact that you, as owner, or representing an owner, if you had a charterer in Puerto Rico with an empty ship operating under that

1 time charter, October 25th, with an October 31st date or  
2 a November 1 date, wouldn't you expect that that time  
3 charterer would try and make a different kind of voyage,  
4 would try very hard to make a different kind of voyage,  
5 to get a shorter voyage than the one actually taken but  
6 get it in within the time he would be permitted to get it  
7 in; isn't that -- would that be a fair expectation on  
8 your part?  
9

- - -

10 (Continued on next page.)  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1  
2           A     Yes, provided -- but in this calculation we did  
3 not take into consideration the off hire that the vessel  
4 was penalized for Tumaco. So in Gulf's mind, it never  
5 occurred that they would deliver the vessel on October 31st.

6                 We are assuming, now, from these calculations,  
7 that the Tumaco damage never existed. But it did exist, and  
8 the expected delivery of the vessel, according to the charter  
9 party, would have been November 27 at 0116 hours as we  
10 noticed earlier. And that is why they did not anticipate  
11 to make a short voyage here because they had the use of  
12 the vessel for another month.

13               MR. SHEINBAUM: I have no further questions.

14               THE COURT: Anything further, Mr. Smith?

15               MR. SMITH: I would just like a minute to  
16 think about this.

17               THE COURT: Of course.

18               MR. SMITH: I have some personal knowledge  
19 with respect to what went on on the redelivery  
20 of this vessel. I was involved in it personally.  
21 There were certain statements that were made  
22 here by Mr. Sheinbaum, and the witness testified  
23 as to some advice he received. And I believe  
24 that my file might indicate a telex or something  
25 else from the club actually giving me their view  
   . . . . .



1

2

R O B E R T            G I N G R O W, called as a witness

3

in behalf of the Plaintiff, having been first duly

4

sworn by the Court Clerk, testified as follows:

5

THE COURT CLERK: Please state your name

6

in full and spell your last name.

7

MR. SMITH: Your Honor, while they are getting

8

ready, the parties have agreed to stipulate that

9

Texas Petroleum Company, the Defendant her in, is

10

a wholly-owned subsidiary -- is that correct?

11

MR. SHEINBAUM: Yes, it is.

12

MR. SMITH: -- of Texaco Incorporated.

13

THE COURT: This record will show that

14

stipulation.

15

DIRECT EXAMINATION

16

BY MR. SMITH:

17

Q Will you state your full name for the record,

18

please?

19

A Robert G. Gingrow.

20

Q Mr. Gingrow, by whom are you employed?

21

A Texaco, Inc.

22

Q And how long have you been employed by Texaco?

23

A About thirty years.

24

Q Are you involved in the chartering of vessels?

25

Have you been involved in the past in chartering?

1

2 A Yes, I am.

3 Q How many years?

4 A Since 1957.

5 Q Would you describe what your duties are generally  
6 for the Court?7 A Well, I direct the chartering of tankers inward  
8 and outward of our company and manage the division under  
9 me.10 Q Did you have anything to do with preparing the  
11 Texaco time charter form?

12 A I was involved in it, yes.

13 Q Are you familiar with the off-hire clause?

14 A I am.

15 Q Clause 10?

16 A Yes, sir.

17 Q Do you ever strike that clause from your charter  
18 party when you are using it?

19 A Yes.

20 Q How often do you strike it?

21 A I can't tell you the number of times, but it is  
22 not unusual.

23 Q It is not unusual?

24 A It is not.

25 Q It stays in more than it is put out, though, isn't



1

A I suppose, yes, it does.

2

3

Q It is something that ship owners usually accept under time charter, isn't that correct?

4

5

A They do not always. I can't say generally.

6

Q But most of the time?

7

8

A I can't say that it is a general thing.

9

Q But it is something that ship owners accept most --

10

A Some ship owners accept them, some ship owners will not. I can't give you a percentage. I am sorry.

11

12

Q Now, just for the record, you were in court during the entire time that Mr. Hatgis testified; is that correct?

13

14

A Yes, sir.

15

16

Q You heard all his testimony?

17

A Yes, sir.

18

MR. SMITH: I have no other questions.

19

MR. SHEINBAUM: No questions, your Honor.

20

THE COURT: That is all, Mr. Gingrow.

21

(Witness excused.)

22

- - -

23

(Continued on next page.)

24

25



T.15 1

*Excerpts from Deposition of Dimitrios Adamidis*

2

THE COURT: Where do we stand? Do

3

Plaintiffs rest?

4

5

6

7

8

MR. SMITH: Not yet, Your Honor. We have a very long deposition. We don't think it is necessary to burden the Court with it. We would just like to read a couple of dozen lines from it.

9

10

THE COURT: Very well. That would be fine with me.

11

12

13

14

MR. SMITH: Your Honor, this is from the deposition of Dimitrios Adamidis, who was the Master of the CAPETAN MATHIOS at the time of the casualty for some time thereafter.

15

On Page 26, by Mr. Smith:

16

17

"Question: Would you identify this document, Captain (handing)?

18

19

"Answer: Yes. The American Bureau of Shipping, seaworthiness certificate.

20

21

"Question: Would you, if you could, identify that document (handing)?

22

23

24

25

"Answer: This was my letter to the Texas Oil Company holding them responsible and explaining what happened in September 29th."

*Excerpts from Deposition of Dimitrios Adamidis*

1

2

Exhibit 2.

3

4

"Question: Would you identify this document?

5

6

7

8

9

10

11

12

13

On Page 93:

14

15

16

17

"Question: With respect to the survey of ABS in Tumacho, what did the sea trials consist of? What did you do or what was done to check the ship?

18

19

20

21

"Answer: They opened the engine at the regular speed to see if it had any knock or if they hear any noise inside the engine or if they have any vibrations.

22

23

24

"Question: The engineer from ABS, was he below in the engine room or up on the bridge?

25

"Answer: What is he going to do in the



1

bridge? He wants to be in the engine room.

2

3

"Question: Did you experience any  
overheating on that occasion during the  
sea trials?

4

5

6

"Answer: No. During the sea trials,  
no.

7

8

"Question: Did you experience any  
vibration of any unusual character during  
the sea trials?

9

10

11

"Answer: We had a little vibration  
but it was not so much for the surveyor.

12

13

"Did you have a discussion with the  
surveyor about the vibration?

14

15

"Answer: No."

16

Going to Page 97:

17

18

"Question: During the sea trials did  
you observe any vibrations --

19

20

"Answer: A little vibration, yes.

21

22

"Question: Excuse me. Let me finish my  
question.

23

24

"Answer: Yes, sir.

25

26

"Question: During the sea trials did you  
observe any vibrations that appeared to you to  
be unusual?

27

28



*Excerpts from Deposition of Dimitrios Adamidis*

1

2

"Answer: A little higher from the  
regular one, yes.

3

4

"Question: Did you advise the surveyor  
of this?

5

6

"Answer: No. It is not my work to  
advise the surveyor about that.

7

8

"Question: Did you advise your owners  
about this?

9

10

"Answer: No. Because I was not sure  
about this kind of vibration.

11

12

"Question: Did you do --

13

"Answer: When I was sure, I was ad-  
vising my owners.

14

15

"Question: And the advice to your  
owners is the telegram that we have marked as  
an exhibit today?

16

17

18

"Answer: Yes, sir."

19

MR. SMITH: That is all out of that deposition.  
Plaintiffs rest.

20

21

Are all of our exhibits in? I would like  
to reoffer them.

22

23

THE COURT: We will check that later, if  
you don't mind. I do want both of you to check  
them out carefully before you leave, of course.

24

25

1  
2 Do you have anything further to offer?

3 MR. SHEINBAUM: Your Honor, before I do  
4 anything else, I would like to have marked,  
5 offered and introduced into evidence the two  
6 letters that Mr. Smith referred to as the  
7 subject of the stipulation going to the  
8 directors and officers of some corporations  
9 of some named ships that have been named in  
10 this case.

11 One is dated July 11, 1975 from a Mr.  
12 Spiros S. Nicholoaides, an attorney in Athens,  
13 to myself, and I request that this be Exhibit Y.

14 THE COURT CLERK: We are up to BC.

15 MR. SHEINBAUM: The next is a letter from  
16 a firm, a law firm in Panama, and it is dated  
17 September 9, 1975, and I request that be Exhibit  
18 BD.

19 THE COURT: Any objection to either of  
20 these?

21 MR. SMITH: No objection.

22 THE COURT: They are both admitted.

23 THE COURT CLERK: Defendant's Exhibit BC  
24 and BD admitted into evidence.

25 (Letter dated July 11, 1975 from Mr.

*Offering of Exhibits*

1

2

Spiros S. Nicholoides to Mr. Sheinbaum was  
marked as Defendant's Exhibit BC in evidence,  
as of this date.)

3

4

5

6

7

(A letter dated September 9, 1975 was  
marked as Defendant's Exhibit BD in evidence,  
as of this date.)

8

9

10

11

12

13

14

MR. SHEINBAUM: Mr. Smith, do I understand  
correctly that with respect to the stipulation  
that the subject matter that is being stipulated  
to is if these gentlemen who signed these  
letters would appear here, they would testify  
as to the results of their inquiry as reflected  
in the letters.

15

16

17

18

19

20

21

MR. SMITH: As stated in those letters.

THE COURT: Pass them up, please.

MR. SHEINBAUM: The only other thing I would  
like to do, aside from checking out the exhibits,  
and I offered and had introduced all those  
exhibits that I had previously marked and intended  
to submit.

22

23

24

Subject to checking that, which I will do  
with Mr. Smith, I would only like to read another  
portion of the Captain's deposition.

25

THE COURT: Yes, of course.



1 MR. SHEINBAUM: At Page 6:

2 (Off the record.)

3 THE COURT: Go ahead.

4 MR. SHEINBAUM: "Question: What was the pur-  
5 pose of the CAPETAN MATHIOS being in Tumácho?

6 "Answer: The purpose was for loading  
7 crude oil for LA LIBERDAD."

8 At Page 20:

9 "Question: What happened after --"

10 I don't need that. I will stipulate that  
11 one, Your Honor.

12 Page 22, Line 24:

13 "Question: Was there a further inspection  
14 of the vessel made after the chain was cut?

15 "Answer: Yes. There was an inspection  
16 from the ABS surveyor.

17 "Question: What is the ABS?

18 "Answer: American Bureau of Surveying,  
19 Captain Morsillo.

20 "Question: Spell that for the reporter.

21 "Answer: M-o-r-s-i-l-l-o.

22 "Question: American Bureau, are you  
23 referring to the American Bureau of Shipping?

24 "Answer: Yes.  
25

1

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And we inspected the ship moving ballast from the after tanks to the forward tanks tipping the vessel so that we can see the propeller and we can see what actually was the damage.

"Question: After that was done did you make any tests or sea trials?"

"Answer: Yes. The inspection of the propeller was finishing the same day of September 30th at 1945 and the ABS survey was asking me to go to trials the next morning so we can have the seaworthiness certificate."

Page 27, Line 24:

"Question: What is the fair water cone Captain?"

"Answer: Fair water cone was the cone that was keeping the --

"Question: Nut, tail shaft nut?"

"Answer: Tail shaft nut. It's a cone protecting the tail shaft nut."

And continue at the bottom of Page 28:

"Question: Were you on the ship when it dry-docked after the accident?"

\* \* \* \* \*

1

2

"Question: Did you have a discussion  
with the surveyor about the vibration?

3

4

"Answer: No.

5

6

"Question: Did the surveyor mention to you  
that he noticed any unusual vibration?

7

8

"Answer: He was writing a report. This  
was what was the idea and the opinion of the  
surveyor.

9

10

11

"Question: Is that report the one that  
you had mentioned and that was marked for  
identification?

12

13

"Answer: Yes, sir.

14

15

"Question: Am I correct that the  
report indicated that no vibration and no  
damage was found?

16

17

"Answer: Yes.

18

"Mr. Smith: To what?

19

20

"Mr. Sheinbaum: I am referring simply  
to Paragraph --

21

22

23

"Mr. Smith: When you say 'no damage was  
found,' the diver reported to the Captain that  
the propeller was badly damaged.

24

25

"When you refer to this report, I am sure  
the report refers to damage somewhere.



1  
2 "The Witness: Yes. It says right  
3 here, 'Buoys chain wrapped in propulsion tail  
4 shaft one turn. Three propeller blades'  
5 edges badly damaged.'

6 "Mr. Smith: I don't know what paragraph  
7 you were referring to but there certainly is  
8 damage in that report.

9 "Question: Let me read you another  
10 section of the report.

11 'A conscientious examination was carried  
12 out to the propeller blades, propulsion shaft,  
13 bearing supports, stuffing box, thrust bear-  
14 ings, founding all items satisfactory.'

15 "Other than the damage that has already  
16 been read into the record --

17 "Answer: Yes.

18 "Question: -- was there any damage at  
19 the time you knew about --

20 "Answer: This is the report of the  
21 surveyor. I am not an engineer. I am a  
22 Captain.

23 "Question: -- that you knew about to the  
24 propeller blades, propulsion tail shaft,  
25 bearing box, stuffing box, thrust bearings?

1 "Answer: No.

2 "Question: In addition, the report  
3 states as follows:

4 'Sea trials were conducted for five  
5 hours in order to check out for vibration  
6 or for any damage in the propulsion system.  
7 No vibration and no<sup>4</sup> damage was found.'

8 "Answer: Yes.

9 "Question: Based upon your observations  
10 during the sea trials was that paragraph  
11 correct?

12 "Answer: If the surveyor said so --  
13 this is the official surveyor. I am only  
14 the Captain.

15 "Question: My question was was that  
16 correct?

17 "Answer: Yes.

18 "Question: Paragraph correct?

19 "Answer: As far as surveyor was right,  
20 yes.

21 "Question: Were those observations  
22 correct according to your observations? Is  
23 that paragraph correct according to your  
24 observations at the time?

25 . . . . .

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vessel reported the vibrations to its owners, which was by your telegram, and the time of the entry into the shipyard was anything done, to your knowledge, to attempt to reduce the vibration of the vessel?

"Answer: We followed the orders that the owners gave to us.

"Question: What were those orders?

"Answer: (Indicating a document)."

And that is the message that has already been marked, Your Honor.

"Question: From the time of the telegram to your owners, which is Exhibit 10 --" And I think it is at the present time Exhibit

2.

-- to the time of the entry into the shipyard, did the vibrations get worse?

"Answer: No.

"Question: They remained constant?

"Answer: Yes.

"Question: Did the overheating get worse?

"Answer: No. That is why we continued the voyage.



1  
2 "Question: As of the time of the visit  
3 to Tumacho were you aware when the ship would  
4 next go into dry dock?

5 "Answer: Please repeat.

6 "Question: In September of 1972 was  
7 the vessel scheduled to go into dry dock?

8 "Answer: We followed what the surveyors  
9 said to us.

10 "Question: When was the next regular dry-  
11 docking of the ship to be?

12 "Answer: Usually the ships, they dry-dock  
13 them every year or every eighteen months. It  
14 is up to the owners to do what they --

15 "Question: When, according to --

16 "Answer: This is a report.

17 "Question: This American Bureau shipping  
18 report was the last dry-docking of a vessel  
19 before Tumacho?

20 "Answer: It was about -- they don't say  
21 here. But we can find out. Last dry-docking,  
22 4/72.

23 "Question: That was in April of 1972?

24 "Answer: Yes.

25 "Question: When did the vessel, the

1

CAPETAN MATHIOS, go into dry dock for the repairs we are talking about?

2

3

"Answer: We mentioned the date before.

4

On March 29, 1973.

5

6

"Question: When did you first see the survey report of the ABS?

7

8

"Answer: The same time that he finished his inspection. Without this kind of certificate I cannot sail. I cannot sail without a seaworthy certificate.

9

10

11

"Question: Did you indicate to the surveyor that you did not agree with his findings about an absence of vibration?

12

13

14

"Answer: No."

15

16

MR. SHEINBAUM: The defense rests, Your Honor.

17

18

THE COURT: Very well, anything further?

19

MR. SMITH: We found 37 has not been offered in evidence.

20

21

MR. SHEINBAUM: No objection.

22

THE COURT: It is admitted.

23

THE COURT CLERK: Plaintiff's 37 received in evidence.

24

25

(Plaintiff's Exhibit 37 was received into

\* \* \* \* \*

## Plaintiff's Exhibit 1

## American Bureau of Shipping

45 BROAD STREET, NEW YORK, N.Y. 10004

Robert B.V.23-72

Duenaventura, October 3, 1972

## "CAPETAN MATHIOS"

THIS IS TO CERTIFY that the undersigned Surveyor to this Bureau, at the request of the Owner's Representative, attend the stevedore's work on the cargo steamer, "CAPETAN MATHIOS" of origin, Greece, Call No. 02071, on the both day of September, 1st. and 2nd. of October, 1972, as the vessel lay afloat at anchor at Tumaco sea berth, Tumaco, Colombia, in order to examine and report upon damage, stated to have been sustained as a result of striking the buoy No. 1 and wrapping the buoy's chain in the propulsion tail shaft, at Tumaco sea berth, Tumaco, Colombia, at approximately 09:44 hours on September 2nd, 1972, during berthing maneuvers. For further particulars, see vessel's log book, note of protest and report as follows:

UPON EXAMINATION FOUND

- 1.- Buoy's Chain wrap in propulsion tail shaft, one turn.
- 2.- Three propellers blades edges badly damaged. Fair water cone and upper guard missing, lower guard damage.

RECOMMENDED

- 1.- Unwrap buoy's chain by cutting one link.
- 2.- Remove propeller and install spare. Repair and install blades as necessary. Install propeller. Replace fair water cone and install new guards.

Item No. 1 was carried out. Item No. 2 was not carried out at this time due to lack of suitable repair facilities.

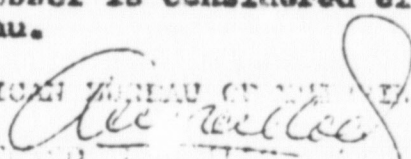
A conscientious examination was carried out to the propeller blades, propulsion tail shaft, bearing supports, stuffing box, thrust bearing, founding all items satisfactory.

Sea trials were conducted for five hours in order to check out for vibration or for any oil leakage in the propulsion system, not vibration and not damage was found. All items were operating as normal as noted.

The vessel is considered in a satisfactory condition to proceed with her regular scheduled operation. It is further recommended that the damage be re-examined at the next regular drydocking period and dealt with to satisfaction of the attending surveyor at that time.

In the opinion of the undersigned this vessel is considered eligible to be retained as classed with this Bureau.

AMERICAN BUREAU OF SHIPPING



This Certificate is granted subject to the condition that it is understood and agreed that neither the Bureau nor any of its Committees nor any of its Officers, Surveyors, Agents or Employees is under any circumstances whatever to be held responsible for any damage or loss or for any certificate issued by this Bureau or its Surveyors or in any entry in Record or other publication of the Bureau or for any of its or their errors of judgment, default or negligence.



## Plaintiff's Exhibit 9

-11-

- K. On completion of repairs, a dock trial to be conducted and the same proven satisfactory. The rudder to be turned and proven in good order.
- L. The necessary drydock services, i.e., shore power, shore steam, circulating water, fire line, and foreign garbage removal, to be provided.
- M. Temporary lighting arrangements necessary to repairs to be provided.
- N. Line handling services to be furnished in docking, undocking, shifting, and during dock trials.
- O. Towboat services to be furnished in shifting vessel to and from drydock and to and from work berths within the shipyard.
- P. Scrap value of damaged tailshaft and reduction gear quill shaft to be credited.

The cost of the foregoing repairs, EXCLUSIVE of notes J (turbine service representative), O (towboat services), and P (scrap value), as well as items otherwise noted for separate account, was agreed with Bethlehem Steel Corporation, Hoboken Yard, Hoboken, New Jersey, in the sum of ONE HUNDRED SIXTY-TWO THOUSAND NINE HUNDRED FIFTY-TWO AND 00/100 DOLLARS (\$162,952.00).

Included in the foregoing agreed price are the following costs.....

Drydocking (note A)

Two (2) haul days @ \$5,893.76.....	\$11,787.52
Two (2) lay days @ \$5,157.04.....	\$10,314.08
Total.....	\$22,101.60

Not included in the foregoing agreed price are the following costs, which have been estimated or otherwise reported as indicated.....

Replacement propeller cone (item 1): estimated.....	\$4,000.00.	<i>actual</i> 3,031.00
Replacement tailshaft (item 3): estimated.....	\$12,500.00.	11,750.00
"Simplex" bearing seals (item 6): estimated.....	\$500.00.	610.00
"Simplex" replacement oil (item 6): estimated.....	\$400.00.	
Turbine service engineer (note J): estimated.....	\$6,000.00.	6,144.67
Towboat services (note O): estimated.....	\$3,500.00.	2,713.00
Scrap material values (note P): estimated.....	\$375.00.	

SURVEYOR'S NOTES:

The vessel was reportedly drydocked at this time solely with the intention of effecting repairs per this survey report. While the vessel was on dock, owners took the opportunity of effecting biennial classification survey, together with attendant obligations, and cleaned and painted the underwater hull. Owners work was carried out concurrently with survey repairs and, if done alone, would have required two (2) days on drydock.

During the course of this repair period, the vessel.....

Arrived in shipyard.....	0610 hours March 29, 1973
First on drydock.....	0630 hours March 29, 1973
First off drydock.....	1415 hours March 30, 1973
Next on drydock.....	1245 hours April 12, 1973
Next off drydock.....	0710 hours April 14, 1973
Departed from shipyard.....	1945 hours April 19, 1973

183a  
**Plaintiff's Exhibit 11**

SURVEYOR'S NOTES (continued)

agreed between the interested parties in the sum of ONE HUNDRED SIXTY TWO THOUSAND, NINE HUNDRED AND FIFTY TWO DOLLARS (\$162,952.00) excluding the sum of EIGHT THOUSAND, FIVE HUNDRED AND SIXTY DOLLARS (\$8,560.00), being the excess cost of overtime worked which did not save any drydock dues but did save three days retention afloat.

- C. For the purposes of adjustment it is estimated that if repairs as a consequence of the above casualty had been effected alone, they would have taken the full period, i.e. 2 Haul Days, 2 Lay Days and 17 days afloat.
- D. During the course of repairs the Owners took advantage of the situation to effect a biennial survey which we understand was not, according to the Classification Requirements, due until April 1974, thus gaining one year of grace (approximately) in their routine survey program.

For the purposes of adjustment, it is estimated that if the above items in respect of Paragraph "D" had been effected alone, they would have taken 2 days in drydock, i.e. 1 Lay Day and 1 Haul Day.

- E. At the time of compiling this report, accounts in connection with the following have not been presented for examination. No doubt these will be presented at some future date, as under:-

- a) Supply of Spare Tailshaft.
- b) Supply of Propeller Fairwater Cone.
- c) Supply of Simplex Seals.
- d) Supply of oil for recharging Simplex System.
- e) Attendance of Stal-Laval representative during course of repairs to gears.
- f) Owners account in respect of Tugboats to shift vessel to and from drydock and to and from work berth in yard.

183

Est. No. \_\_\_\_\_ Time No. \_\_\_\_\_

EXPENSES		1521,302		169,633	
1. Ballast					
2. Voyage					
3. Loading					
4. Discharging					
5. Extras					
6. Total of 1. to 5.					
per day					
BILL FORM		11,869 - Daily		13,048	
7. Days at Sea	Tons 65	360,830 - Monthly		396,681	
8. Days in Port	Tons 33	4,119,551 - Annually		4,521,840	
9. Extra	Tons	12,111,662 - 3 yrs		13,685,520	
TOTAL	700	6923.6		16,100	
PORT EXPENSES		3,500			
Loading Expenses					
DISCHARGING PORT		4,600			
Port Expenses					
Discharging Expenses					
PORT CHARGES					
Unloading Port Exp.					
Dispatch					
Tual Expenses					
Miscellaneous					
AL EXPENSES		45,000			
N. PROFIT / Loss					
TOTAL		Days	\$	per day	
TOTAL		Days	\$	per day	





186a

## Plaintiff's Exhibit 14

VESSEL CHARTERS

VESSEL CARLETON MATHIAS

FROM (SAILING)

TO

TO

VES

## INCOME

## CARGO

30,120 TONS @ \$ 8.00  
 Demurrage  
 Total Cargo Income  
 1/4 % Commission  
 TOTAL NET FREIGHT

Est. Income True Income

	10.00
2,117.60	2,117.60
3,022	3,777
235,712	298,472

Est. Exp. True Exp.

## EXPENSES

## WAGE INFORMATION

Ballast  
 Voyage  
 Loading  
 Discharging  
 Extras

0.4 Total @ \$ 4.60  
 per day

## TURNS

Days at Sea Tons  
 Days in Port Tons  
 Extra Tons

TOTAL @

## DRAINAGE

Port Expenses  
 Loading Expenses

## DISCHARGING PORT

Port Expenses  
 Discharging Expenses

## PER EXPENSES

Anchoring Port Exp.  
 Dispatch  
 Canal Expenses  
 Miscellaneous

## AL EXPENSES

AL PROFIT / Loss

1. TOTAL Days

\$ per day

2. TOTAL Days

\$ per day

48,640

190,098

30.4

6,253 - Daily

190,098 - Annual

2,136,125 - Annual

6,553,320 - 3 years

249,752

30.4

7,216

2,175,200

2,872,000

10.00

2,640.00

4,533

38,107

11,779 1700

38,106 1700

9,146.60

187a  
Plaintiff's Exhibit 16

5-LL Acts

\*  
BOYDWEIR NYK

GULFOIL NYK

WU 149 GULFOILNY 6-28-73 DC

BOYD WEIR AND SEWELL, INC.  
17 BATTERY PLACE  
NEW YORK, N.Y.

ATTENTION: J. CHRISTOPHER

"CAPETAN MATHEOS/ C/P DATE SEPTEMBER 19, 1969 AND ADDENDUM

NUMBER ONE DATED MAY 28, 1971 STOP REFERRING TO CLAUSE TEN  
KINDLY ADVISE OWNER THAT WE HEREBY DECLARE OUR OPTION TO ADD  
ALL OFFHIRE TIME TO THE CHARTER WHICH HAS ACCRUED SINCE  
AUGUST 24, 1971 AND WHICH MAY ACCRUE BETWEEN NOW AND SEPTEMBER  
24, 1973.

W. W. GRAHAM GULFOILNY

\*  
BOYDWEIR NYK

GULFOIL NYK



May 30, 1972

Gulf Oil Company-Transportation  
Gulf Building  
Pittsburgh, Pa. 15230

Attention: Mr. N. E. De Santis

S.T. "CAPETAN MATHIOS"

Dear Sirs:

In reply to your telegram of May 26th, Please note  
that Owner's tentative schedule for the next Drydocking of the  
subject vessel is for the Summer of 1973.

Yours very truly,

HOMERIC MARITIME AGENCIES, INC.  
(As Agents Only)

By: Nicholas Hatgis

NH/nh

189a  
Plaintiff's Exhibit 18

C F C S  
  
**SENT**

OCT 9 1972

4- L L N H

U 0120

GULFMARINE PIT

FROM ROYDHELL NEWYORK OCT 9/72 1226PM

TO GULF OIL CO PITTSBURGH PA.

ATTN.: MR. N. DESANTIS

"CAPETAN MATHIOS" CONFIRMING VARIOUS PHONE CONVERSATIONS PLEASE  
NOTE THAT OWNERS HAVE BEEN ADVISED THAT IT WILL TAKE AT LEAST  
EIGHT WEEKS TO MANUFACTURE A NEW PROPELLER COME TO REPLACE THE  
ONE LOST AS A RESULT OF THE TUMAGO ACCIDENT STOP AS VESSEL IS  
PRESENTLY IN POSSESSION OF A SEAWORTHINESS CERTIFICATE BY A.R.S.  
AND IS ABLE TO MAINTAIN HER SPEED SHE CAN PERFORM HER USUAL  
COMMITMENTS PER CHARTER PARTY STOP OWNERS WILL ADVISE YOU AT A  
LATER DATE WHEN VESSEL WILL BE READY TO ENTER DRYDOCK IN  
ORDER TO ARRANGE FOR A MUTUALLY CONVENIENT DATE AND PLACE

HOMERIC MARITIME AGENCIES INC.

RWS NY ENDS

GULFMARINE PIT

<710-664-4296> CHART

C F L S.  
**SENT**

NOV 2 1972

G- NH

827

GULFMARINE PIT  
FROM BOYDWELL NEWYORK NOV 20/72 1055AM

TO GULF OIL CO PITTSBURCH PA.

ATTN.: MR. N.E. DESANTIS, DIRECTOR VESSEL AGENCY  
FROM: MR. NICHOLAS HATGIS

"CAPETAN MATHIOS" FURTHER TO OUR MESSAGE OF OCTOBER 9 AND CONFIRMING  
TODAY'S TELEPHONE CONVERSATION PLEASE NOTE THAT OWNERS HAVE ADVISED  
US THAT THE NEW PROPELLER CONE WILL BE READY IN THE EARLY PART OF  
JANUARY STOP OWNERS WOULD THEREFORE APPRECIATE YOUR SCHEDULING VESSEL  
IN SUCH A MANNER SO AS TO DRYDOCK ON THE U.S. EASTCOAST AREA AROUND THE  
MIDDLE OF JANUARY IN ORDER TO EFFECT REPAIRS TO THE DAMAGES CAUSED  
WHILE DOCKING AT THE TEXACO INSTALLATION AT TUMACON ON SEPTEMBER 29TH

HOMERIC MARITIME AGENCIES, INC.

BWS NY ENDS

GULFMARINE PIT

<710-664-4296> CHART



SENT

FEB 26 1973

---

NH

392

GULFMARINE PIT

FROM RAYDWELL NEWYORK FEB 26/73 12 N31N

TO GULF OIL PITTSBURGH PA.

ATTN.: MR. N.E. DESANTIS DIRECTOR VESSEL AGENCY  
FROM: MR. NICHOLAS WATGIS

"CAPETAN MATHIOS" REGARDING OUR PHONE CONVERSATIONS ABOUT VESSELS  
DRYDOCKING IN ORDER REPAIR PROPELLED DAMAGES CAUSED AT THAMCO PLEASE  
NOTE THAT OWNERS REQUEST YOUR PERMISSION TO DRYDOCK VESSEL AT  
BALTIMORE FOLLOWING HER COMPLETION OF NEXT DISCHARGE AT PHILADEL-  
PHIA ON OR ABOUT MARCH 6/7TH. EXPECTED TIME OF REPAIRS ABOUT ONE  
WEEK KINDLY CONFIRM YOUR AGREEMENT TO THE ABOVE

HOMERIC MARITIME AGENCIES, INC.

RWS NY ENDS

GULFMARINE PIT

<710-664-4296> CHART

**WESTERN UNION**

**Telegram**

YSE154 626P EST FEB 26 73 NY1193(1750)(1-050512A057)PD 02/26/73 1749

TLX GULF OIL PGH

ZCZC 278 PD PITTSBURGH PA. 2-26-73

PMS HOMERIC MARITIME AGENCIES

17 BATTERY PLACE

NEW YORK NY

CONFIRMING TELCON THIS DATE DESANTIS/HATGIS CAPETAN MATHIOS  
AFTER DISCHARGE PHILADELPHIA ON V-97 WILL MAKE ONE MORE TRIP  
VENEZUELA/GULFPORT STOP THEREAFTER VESSEL TO BE RELEASED  
FOR DRYDOCKING DURATION APPROXIMATELY ONE WEEK STOP PLEASE  
ADVISE THIS OFFICE EARLIEST WHAT DRYDOCK WHEN FIRMED STOP  
ALSO AFTER ARRIVAL, ESTIMATED TIME DEPARTURE AND ANY CHANGE  
WHATSOEVER AT EARLIEST OF ACTUAL DEPARTURE DATE  
N E DESANTIS

ORIGINAL

193a

Plaintiff's Exhibit 24

EXHIBIT 425-6600  
TYPE 10-101-1502

CABLE ADDRESS "BOYDWELL"  
BOE CODE  
TELEX: FCA 232406

*Boyd, Weir & Sewell*  
INCORPORATED

*Steamship Agents and Ship Brokers*

*17 Battery Place*

*New York, N.Y. 10004*

May 28, 1971

ADDENDUM NO. 1

S/S "CAPETAN MATHIOS"

Referring to charter party dated New York, N. Y. September 19, 1969 between COMPANIA PELINEON DE NAVIGACION S. A., Owners and GULF OIL CORPORATION, Charterers of the Greek S/S "CAPETAN MATHIOS", it is this day mutually agreed that:

1. This charter party has been extended for a further period of two years, one month more or less, at Charterers option. This additional period to run in direct continuation upon expiration of the above charter without cessation of hire.
2. Time charter hire under this Addendum is to be \$3.85 per DWT per month.
3. Lump sum overtime to officers and crew under Clause 7 is \$150.00 for each loading port and \$200.00 for each discharging port, which sums include costs of meals, telephone, radio and telegrams.
4. Under Clause 24, delete lines 190 and 191 and insert "Once annually Charterer is to schedule the vessel to the United Kingdom or Continent or Mediterranean Sea to enable the vessel to drydock and/or repair. In the event the Charterer is unable to programme the vessel to the United Kingdom or Continent or Mediterranean then the Charterer shall release the vessel to Owner in the Caribbean Sea to enable Owner to arrange such voyage and the vessel will be off hire from the time of her release to Owners until her subsequent return to Charterer's service in the Caribbean Sea. Owner has the right to either ballast the vessel or carry cargoes for their own account in either or both directions."
5. In Clause 39 add "any increase in War Risk Insurance premiums and/or war bonus to Officers and/or crew over these in effect as of May 28, 1971, is for Charterer's account."
6. "If the Owner is required to establish or maintain financial security or responsibility in respect of oil or other pollution damage to enable the Vessel lawfully to enter, remain in or leave any port, place, territorial or contiguous waters of any country or state in performance of this charter party, the Charterers shall make

*Theirs' responsibility for oil or 27 May 1971*



*B. W. & S., Inc., to*

May 23

1971ADDENDUM NO. 1S/S "CAPETAN MATHIOS" (Continued)

all arrangements by bond or otherwise as may be necessary to satisfy such requirements at the Charterers sole expense and the Charterer shall indemnify the Owners against all consequences (including loss of time) of any failure or inability to do so: Provided always that the Charterer may require the Owners to obtain from his P. and I. Club a certificate of insurance for this purpose but only to the extent that the Owners P. and I. Club is willing and able to provide such certificate". Notwithstanding the foregoing and provided always that present F.M.C. regulations remain unchanged, Owners warrant that the Vessel is at the commencement of this charter party, in possession of a certificate of financial responsibility issued by the F.M.C. for the purpose of the U. S. Water Quality Improvement Act 1971 and that throughout the currency of this charter party the Owners will maintain insurance, so far as available, as required by present F.M.C. regulations."

7. "The foregoing in no way releases the Owner of any uninsured legal liability under any act for Owners and/or Vessel's negligence and unseaworthiness. The Charterer retains the right to proceed against the Owner for any expense as a result of the Vessel's negligence or unseaworthiness."
8. Tovalop premiums for charterer's account.
9. Charterers option to load up to six (6) cargoes per year of naphtha, which is to be considered and handled as dirty cargoes.
10. Owner warrants that he is a party to TOVALOP and will remain a party thereto during the currency of this Charter, provided, however, that if Owner acquires the right to withdraw from TOVALOP under Clause VIII thereof, nothing herein shall prevent it from exercising that right.

When an escape or discharge of oil occurs from the Vessel and threatens to cause pollution damage to coastlines, Charterer may, at its option, and upon notice to Owner or Master, undertake such measures as are reasonably necessary to prevent or mitigate such damage, unless Owner promptly undertakes same. Charterer shall keep Owner advised of the nature of the measures intended to be taken by it. Any of the aforementioned measures actually taken by Charterer shall be at Owner's expense (except to the extent that such escape or discharge was caused or contributed to by Charterer), provided that if Owner considers said measures should be discontinued, Owner may so notify Charterer and thereafter Charterer shall have no right to continue said measures under the provisions of this clause and all further liability to Charterer thereunder shall thereupon cease.

If any dispute shall arise between Owner and Charterer as to the reasonableness of the measures undertaken and/or the expenditure incurred by Charterer hereunder, such dispute shall be referred to arbitration or the competent Court as provided for in this Charter.

No. 3

195a  
Plaintiff's Exhibit 24

*B. W. & S., Inc., to* May 28 1971

ADDENDUM NO. 1

S/S "CAPETAN MATHIOS" (Continued)

The above provisions are not in derogation of such other rights as Charterer or Owner may have under this Charter, or may otherwise have or acquire by law or any International Convention.

All other terms, conditions and exceptions of charter party dated September 19, 1969 to remain unchanged.

Witness the signature of

*W. W. Graham*

Witness the signature of

R. F. Cooke

*W. W. Graham*  
W. W. Graham

FOR COMPANIA "PELINEON"  
DE NAVEGACION S.A.

*M. J. Lopez*  
President

GULF OIL CORPORATION

*R. F. Cooke*  
R. F. Cooke, Attorney-in-Fact

TELEPHONE 425-6900  
TWX 212 571-0051

196a  
Plaintiff's Exhibit 24

CABLE ADDRESS "BOYDWEILL"  
BOE CODE  
TELEX 2405 AND 2406

*Boyd, Weir & Sewell*  
INCORPORATED

*Steamship Agents and Ship Brokers*

*17 Battery Place*

*New York, N.Y. 10004*

NOV 26 1969

B. W. & S.

13th November, 1969

ADDENDUM NO. 1

M/T "CAPETAN MATHIOS"

Referring to the Charter Party of this Vessel dated New York, N. Y., 19th September, 1969, between COMPANIA PELINEON DE NAVIGACION S. A., Owner, and GULF OIL CORPORATION, Charterer, it is agreed that:

Laydays shall be narrowed to

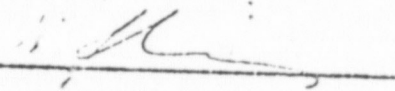
January 1, 1970 - Cancelling: January 15, 1970.

All other terms, conditions and exceptions of the Charter Party to remain unchanged.

Witness the signature of: S.L. Fafafios

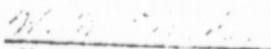


COMPANIA PELINEON DE NAVIGACION S. A.

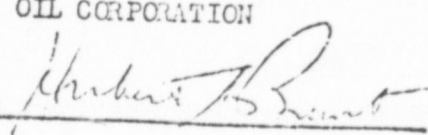
By: 

Witness the signature of:

H. S. Brewster

  
W. W. Graham

GULF OIL CORPORATION

By: 

H. S. Brewster, Marine Administration  
Manager



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Plaintiff's Exhibit 24

*Byrd, W. P. & Son*  
*Byrd, W. P. & Son*  
*Byrd*

Form 15-23

CODE WORD FOR THIS CHARTER PARTY:

TEXAC - TIME

(July 1, 1969)

TANKER TIME CHARTER PARTY

DESCRIPTION  
OF VESSEL  
AND  
PERFORMANCE

IT IS THIS DAY AGREED between  
of Panama, R. P.

New York, N. Y., 19th September, 1969.  
COMPANIA PELINON DE NAVIGACION S. A.

Owner of the good Greek

tank vessel called "CAPETAN MATHIOS"

(hereinafter referred to as "the vessel") described as per Clause 1 hereof and

GULF OIL CORPORATION

of Pennsylvania

(hereinafter referred to as "Charterer").

1. Owner guarantees that at the date of delivery of the vessel under this charter
- (a) she shall be classed Highest Norske Veritas
- (b) she shall carry about 30,220 tons (of 2,240 lbs.) total deadweight of cargo, bunkers, water and stores on assigned summer mean draft 0 ft. 0 in. in salt water;
- (c) she shall be in every way fitted for burning marine diesel oil or fuel oil with a maximum viscosity of 3500 seconds Redwood 1 at 100 degrees F. and any commercial grade of fuel oil under boilers;
- (d) she shall be fully equipped and capable at all times of heating and maintaining cargo at a temperature of at least 135 °P;
- (e) she shall be equipped with 3 in cargo pumps and 2 stripping pumps capable of discharging in the aggregate 2,500 tons and 150 tons (of 2,240 lbs.) water, respectively, per hour against a pressure of 100 pounds per square inch at the vessel's manifold
- (f) Owner also warrants that the vessel shall be of the description set out in Form A dated 19th September, 1969, hereto and signed by it and undertakes to use its best endeavors so to maintain the vessel during the period of her service hereunder. Further but otherwise without prejudice to the generality of this clause Owner guarantees that the average speed of the vessel, loaded and light, in moderate weather will be not less than 16 knots with a maximum bunker consumption of 70 tons fuel oil per day for all purposes excluding cargo heating and tank cleaning, said guarantee to apply during the entire period of service hereunder.
- The foregoing average speed and consumption shall be reviewed semi-annually or other less period, as applicable, over the whole of the time the vessel is on hire (including stops at sea which are not counted as periods of off-hire under the terms of this charter party) during such period by reference to the observed distance from se buoy to se buoy on all sea passages during such period.
- If at the end of each twelve (12) calendar month period it is found that Owner fails to comply with its obligations under this clause, hire shall be reduced to the extent necessary to indemnify Charterer for such failure. Reduction of hire under the foregoing provisions shall be without prejudice to any other remedy available to Charterer.
- Claims in respect of reduction of hire arising under this clause during the final year or part year of the charter period as specified in Clause 3 hereof and any extension thereof under this charter shall in the first instance be settled in accordance with Charterer's estimate made two months before the end of the charter period as so specified. Any necessary adjustment after the end of the charter shall be made by payment by Owner to Charterer or Charterer to Owner as the case may require.
- In the event of any conflict between the particulars set out in the aforesaid Form A and any other provision (including this clause) of this charter such other provision shall prevail.

CONDITION  
OF VESSEL

2. Owner shall, before and at the date of delivery of the vessel under this charter, exercise due diligence to make the vessel
- (a) in every way fit to carry crude petroleum and/or its products;
- (b) tight, staunch, strong in good order and condition, in every way fit for the service, with her machinery, boilers and hull in such a state as to obtain the most economic working and with a full and efficient complement of master, officers and crew for a vessel of her tonnage.
- Owner undertakes that throughout the period of service under this charter it will, whenever the passage of time, wear and tear or any event (whether coming within Clause 37 hereof or not) requires steps to be taken to maintain the vessel as stipulated in Clause 1 hereof and in this clause or to restore the vessel to such condition, exercise due diligence to maintain or restore the vessel as aforesaid, and that it will comply with the regulations in force as existing and amended from time to time so as to enable the vessel to pass through the Suez and Panama Canals by day and night without delay, loaded or unloaded.

PERIOD AND  
TRADING  
LIMITS

3. Owner hereby lets, and Charterer hereby hires, the vessel as herein described for the term of eighteen (18) months fourteen (14) days more or less at Charterer's option

by giving Owner

months' notice thereof prior to expiration of the first named term, hire to commence when written notice from the master has been given to Charterer or its agent during daylight hours that the vessel is at its disposal in such ready accessible dock, wharf or place where she can always safely lie afloat, as Charterer or its agent may direct, the vessel being then ready with holds and cargo tanks, pipes and pumps clear and clean to Charterer's Inspector's satisfaction and in every way fitted for the service and the carriage of all lawful merchandise including in particular up to three (3) grades within natural divisions of crude oils, and Charterer shall be allowed to touch and discharge cargo at any port, place, berth, dock, anchorage or submarine line where she can always lie safely afloat, but notwithstanding anything contained in this or any other clause of this charter, Charterer shall not be deemed to warrant the safety of any port, place, berth, dock, anchorage or submarine line and shall be under no liability in respect thereof except for loss or damage caused by its failure to exercise due diligence as aforesaid. Subject as above, the vessel shall be loaded and discharged in any dock or at any wharf or place or anchorage or submarine line or alongside lighters or other vessels as Charterer may direct where the vessel can always safely lie afloat, or at any safe tidal berth where the vessel may have to lie aground as usual and customary for tank vessels of like tonnage and draft.

DELIVERY  
AND  
REDELIVERY

4. The vessel shall be delivered by Owner at a safe port in the CARIBBEAN SEA at Charterer's option and redelivered to Owner at a safe port in the CARIBBEAN SEA at Charterer's option.
- Hours of delivery and redelivery are to be adjusted to Greenwich Meridian Time and payment of hire is to be based on the same time.

COMMENCEMENT  
OF HIRE

5. Hire shall not commence before 15th December, 1969, unless with Charterer's consent, and Charterer shall have liberty to cancel this charter should vessel not be ready and at its disposal on or before 15th January, 1970.

Owner is to narrow the laydays to fifteen (15) days by 15th November, 1969.

Rate of hire shall be provided Charterer shall pay for the use and hire of the vessel while on hire at the rate of TWO DOLLARS AND TWENTY-FIVE CENTS per ton on the vessel's total deadweight, as per Clause 1, per calendar month, commencing at and from the time and date of her delivery as aforesaid, and pro rata for any part of a month, and continuing until the time and date of her redelivery to Owner.

which is defined as ranging from Beaufort Scale 0 to 4 inclusive,

excluding Communist and Communist-controlled countries, Cuba, Israel and Vietnam.

and/or dirty petroleum products, excluding Boscan and San Joaquin crudes and cargo requiring heat in excess of 130 °F.

### PAYMENT OF RENT

\$ 550.00

## FINAL VOYAGE

**OFF-HIRE**

### EXTENSION OF CHARTER

### LOSS OF VESSEL

LIENS

## ADVANCES

SPACE  
AVAILABLE  
TO  
CHARTERER

### STORAGE

OWNER TO  
PROVIDE

CHARTERER  
TO PROVIDE

### DUTIES OF MASTER

## INSTRUCTIONS AND LOGS

CONDUCT  
OF VESSEL'S

BILLS OF

shall proceed to, enter, remain in or at, depart from or shift berth in or at any port, place, berth, dock, anchorage or submarine line, other than consequences or liabilities or loss or damage resulting from or caused by failure to exercise due diligence as required by Clause 3 hereof.



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Plaintiff's Exhibit 24

BUNKERS AT DELIVERY AND REDELIVERY	22. Charterer shall accept and pay for all bunker oil and boiler water (if vessel is a steamer) on board at the time of delivery, and Owner shall, on the expiry of this charter, pay for all bunker oil and boiler water (if vessel is a steamer) then remaining on board at current market prices at the respective ports. Owner shall give Charterer the use and benefit of any fuel contracts it may have in force, at home and/or abroad if so required by Charterer, provided suppliers agree. Maximum bunker fuel oil on delivery and redelivery to be sufficient for vessel's needs to reach next loading port plus spares as required by Charterer and Owner, respectively.	181 182 183 184 185 186
GRADE OF BUNKERS	23. Charterer has the option of supplying for use in the main motors marine diesel oil or fuel oil with a maximum viscosity of 3500 seconds Redwood 1 at 100 degrees F, and for use under the boilers any commercial grade of fuel oil. If Owner requires the vessel to be supplied with more expensive bunkers, Owner shall be liable for the extra cost thereof.	187 188 189
DRYDOCKING	24. Owner agrees to drydock and paint the vessel's bottom about every nine but not more than twelve months, and, when due, Charterer agrees to send the vessel to a port designated by Owner where she can be cleared of oil and gas and be drydocked and painted. In such event Owner shall always be solely responsible for clearing the vessel of oil and gas, but the expense and time thereof shall be for Charterer's account if drydocking the vessel is for the purpose of cleaning and painting bottom only, and for Owner's account if drydocking is for the purpose of effecting any repairs as well as cleaning and painting bottom. Incidental towage, pilchage, fuel, water and all other expenses of drydocking and painting, including additional expense of barging bunkers shall be for Owner's account. In case of drydocking pursuant to this clause at a port where the vessel loads or discharges or bunkers under Charterer's orders, hire shall be suspended from the time vessel receives free pratique on arrival, if in ballast, or on completion of discharge of cargo, if she arrives loaded, until vessel is again ready for service. In case of drydocking, whether for painting the vessel's bottom and/or repairs, at a port designated by Owner other than where the vessel loads, discharges or bunkers under Charterer's orders, hire shall be suspended from the time the vessel departs from the route normally taken to Charterer's next loading port until the time when the vessel returns to the same or equivalent position, and all port charges incurred and fuel and water consumed between these times are to be for Owner's account, including agency fee, Owner having the privilege of appointing its own agent at such port. It is understood that the designation of the drydocking port, whether for bottom painting and/or repairs is Owner's responsibility. All drydocking shall be at Owner's expense. Time spent by the vessel in and waiting her turn to enter drydock shall, irrespective of duration, count as off-hire.	190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206
NEGLIGENCE OF PILOTS, ETC.	25. Neither Charterer nor its agents, or any of its associated or affiliated companies, nor any of their employees, shall be responsible for any loss, damage or liability arising from any negligence, incompetence or incapacity of any pilot, stevedore, longshoreman or the personnel of any tug or arising from the terms of the contract of employment thereof or for any unseaworthiness or insufficiency of any tug or tug launches or other craft, the service for which are arranged by Charterer, and Owner agrees to indemnify and hold Charterer harmless against any and all such loss, damage or liability but such indemnity shall not exceed the amount to which Owner would have been entitled to limit its liability if Owner had itself arranged for such pilots, tug boats or stevedores.	207 208 209 210 211 212
TUGBOATS	26. Charterer shall have the option of using its own tugs or those owned by parent, subsidiary or affiliate companies in the docking, undocking, or assisting in other ways, of the vessel covered by this charter. In this event the terms and conditions for such services prevailing in the port where such services are rendered, and used by independent tugboat owners, shall be applicable and Charterer and its subsidiaries or affiliates shall be entitled to all the exemptions from and limitation of liability applicable to said independent tugboat owners and their published terms and conditions.	213 214 215 216 217
EQUIPMENT	27. Charterer, subject to Owner's approval, shall be at liberty to fit any additional pumps and/or gear for loading or discharging cargo it may require beyond what is on board at the commencement of the charter, and to make the necessary connections with steam or water pipes, such work to be done at its expense, and such pumps and/or gear so fitted to be considered its property, and Charterer shall be at liberty to remove it at its expense and in its time during or at the expiry of this charter, the vessel to be left in her original condition to Owner's satisfaction.	218 219 220 221 222
PREVIOUS CARGOES	28. The last two successive cargoes carried, or to be carried, by the vessel immediately preceding her entering upon this charter consisted, or will consist of <u>dirty petroleum products</u> .	223 224
CONDITIONS OF TANKS	29. If, on delivery to Charterer at the inception of this charter, the vessel's tanks are clean and fit for the transportation of clean products such as refined petroleum or naphtha, the vessel is to be redelivered to Owner at the expiry of this charter in like condition. Similarly, if her tanks are soiled when delivered to Charterer, the vessel may be redelivered to Owner with tanks in like condition.	225 226 227
TANKS, ETC.	30. Owner guarantees that the tanks, valves and pipelines are oil tight at the commencement of this charter, and Owner binds itself to take every possible precaution to maintain the tanks, valves and pipelines in this condition during the charter period.	228 229
PASSENGERS	31. <del>Charterer may send passengers on board the vessel available accommodation upon any voyage made under this charter. Charterer shall provide all requisites as supplied to officers. Charterer paying at the rate of \$51.00 per day for each passenger while on board the vessel.</del>	230 231 232
SUB-LET	32. Charterer shall have the option of subletting or assigning this charter to any individual or company but Charterer shall always remain responsible for the due fulfillment of this charter in all of its terms and conditions.	233 234
LAY-UP	33. Charterer shall have the option of laying up the vessel for all or any portion (exceeding 30 days) of the charter period, in which case hire hereunder shall continue to be paid, but there shall be credited against such hire the whole amount which Owner shall save (or reasonably should save) during such period of lay-up through reduction in expenses, less any extra expenses to which the Owner is put as a result of such lay-up. Should Charterer, having exercised the option granted hereunder, desire the vessel again to be put into service, Owner will, upon receipt of notice from Charterer to such effect, immediately take steps to restore the vessel to service as promptly as possible. The option granted to Charterer hereunder may be exercised one or more times during the currency of this charter or any extension thereof.	235 236 237 238 239 240 241
LUBRICANTS	34. <del>Charterer agrees to use and burn the vessel exclusively petroleum products manufactured and sold by Texaco Petroleum Corporation or its affiliates. In the event the vessel as of the date of this charter is using other petroleum products, Charterer agrees to purchase replacement supplies while the vessel is performing the service for which this charter is made. Laboratory tests conducted through Texaco Petroleum Corporation shall determine whether or not the products being used shall be for Charterer's account.</del>	242 243 244 245
SALVAGE	35. All salvage monies earned by the vessel shall be divided equally between Owner and Charterer after deducting master's, officers' and crew's share, legal expenses, hire of vessel during lost time, value of fuel consumed, repairs of damage, if any, and any other extraordinary loss or expense sustained as a result of the service, which shall always be a first charge on such monies.	246 247 248
HOUSE FLAG	36. Charterer shall be allowed to fly its house flag <del>and to paint the vessel's funnel with its own colors, if desired, but at Charterer's expense.</del>	249 250
EXCEPTIONS	37. Neither the vessel nor the master or Owner shall be or shall be held liable for any loss of or damage to or delay to the cargo or for any failure in performing hereunder arising or resulting from, any act, neglect, default or barratry of the master, pilots, mariners or other servants of Owner in the navigation or management of the vessel, fire, unless caused by the personal design or neglect of Owner, collision, stranding, or peril, danger or accident of the sea or other navigable waters, saving or attempting to save life or property, wastage in weight or bulk, or any other loss or damage arising from inherent defect, quality, or vice of the cargo; any act or omission of Charterer or Owner, shipper or consignee of the cargo, their agents or representatives, insufficiency of packing, insufficiency or inadequacy of marks, explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, equipment or machinery, unseaworthiness of the vessel unless caused by want of due diligence on the part of Owner to make the vessel seaworthy or to have her properly manned, equipped and supplied, or from any other cause of whatsoever kind arising without the consent or privity of Owner. And neither the vessel, her master or Owner, nor Charterer, shall, unless otherwise in this charter expressly provided, be responsible for any loss of or damage to or delay to or failure to discharge or deliver the cargo or for any failure in performing hereunder arising or resulting from: act of God; act of war; perils of the sea; act of public enemies; pirates or a sailing thieves; arrest or restraint of princes, rulers or people, or seizure under legal process provided bond is promptly furnished to release the vessel or cargo; strike or lockout or stoppage or restraint of labor from whatever cause either partial or general; or riot or civil commotion. Vessel shall have liberty to sail with or without pilots, to tow or to be towed, to go to the assistance of vessels in distress and to deviate for the purpose of saving life or property or of landing any ill or injured person on board. This clause is not to be construed as in any way affecting the provisions for cessation of hire as provided in this charter.	251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266
WAR CLAUSES	38. No contraband of war shall be shipped, but petroleum and/or its products shall not be deemed contraband of war for the purpose of this clause unless shipped or intended to be shipped to or intended for a country involved in war, nor shall the vessel be required to enter any port that is in a state of blockade or where hostilities are in progress, or any war zone, or zone deemed a danger zone in consequence of the existence of war, or actual hostilities, without the consent of Owner, and if such consent be given then Charterer will pay the cost of insuring the vessel against all war risks in an amount equal to the value under her ordinary marine policy <del>less the amount of any reduction in premium.</del> Said valuation shall be Owner's insured value for hull and machinery plus increased value, but shall not include any coverage for any other reasons such as loss of hire, anticipated profits or insurance on charter hire, etc. Owner agrees to apply for and reimburse Charterer for any rebates by reason of vessel trading in lower premium rate areas insofar as war risk insurance coverage is defined, said reimbursement to be limited to Charterer's pro rata share of such rebate. Charterer will not be liable for war risk insurance premiums while vessel is off hire, war risk insurance to be arranged by Owner.	267 268 269 270 271 272 273 274 275 276
REQUISITION	39. In the event of the existence of war, or actual hostilities and the continuance of this Charter, the Charterer shall assume the proved additional cost of wages and insurance properly incurred in connection with the Master, Officers and Crew as a consequence of such war or actual hostilities. Any increase in war risk insurance premiums and/or war bonus to	277 278 279
CHANGE OF OWNERSHIP DAMAGES	40. Should the vessel be requisitioned by any government or governmental authority during the period of this charter, she shall be off-hire hereunder during the period of such requisition, and any hire or other compensation paid in respect of such requisition shall be for Owner's account. The time the vessel is on any such requisition shall count as part of the period provided in Clause 3 of this charter. 41. Owner shall not change ownership and/or flag of the vessel without prior written approval of Charterer. 42. Demands for bills of lading of this charter shall include all provable claims and all reasonable costs and attorney fees incurred in any action or proceeding hereunder.	280 281 282 283

Officers and/or crew over those in effect as of 19th September, 1969, is for Charterer's account.



200a  
Plaintiff's Exhibit 24

DEMISED	43. Nothing herein contained shall be construed as creating a demise of the vessel to Charterer.	282
WAR RISKS	44. (a) If any port of loading or discharge named in this charter party or to which the vessel may properly be ordered pursuant to the terms of the Bill of Lading is closed by war, civil war, civil commotions, revolutions or the operation of international law (1) entry to any such port of loading or discharge of the loading or discharge of cargo at any such port be considered by the master or Owner in his or its discretion dangerous or prohibited or (2) if he considered by the master or Owner in his or its discretion dangerous or impossible for the vessel to reach any such port of loading or discharge—Charterers shall have the right to order the cargo or such part of it as may be affected to be loaded or discharged at any other safe port of loading or discharge within the range of loading or discharging ports respectively established under the provisions of this charter party (provided such other port is not blockaded or that entry thereto or loading or discharge of cargo thereat is not in the master's or Owner's discretion dangerous or prohibited). If in respect of a port of discharge no orders be received from Charterer within 48 hours after it or its agents have received from Owner of any such government or authority or by any contract or contracts of affreightment and Owner shall be entitled to freight as if discharge has been effected at the port or ports originally designated or to which the vessel may have been ordered pursuant to the terms of the Bills of Lading. All extra expenses involved in reaching and discharging the cargo at any such port of discharge shall be paid by Charterers and/or cargo owner and Owner shall have a lien on the cargo for all such extra expenses.	283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308
BOTH TO BLAME	45. If the vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the master, mariner, pilot or the servants of the Owner in the navigation or in the management of the vessel, the owners of the cargo carried hereunder shall indemnify the Owner against all loss or liability to the other or non-carrying ship or her owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or Owner. The foregoing provisions shall also apply where the owners, operators or those in charge of any ships or objects other than, or in addition to, the colliding ships or object are at fault in respect of a collision or contact.	309 310 311 312 313 314 315 316 317 318 319 320 321 322
NEW JASON CLAUSE	46. In the event of accident, danger, damage or disaster before or after the commencement of any voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with the carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods. If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if the said salving ship or ships belonged to strangers. Such deposit as the carrier or his agents may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the carrier before delivery. In lieu of said deposit, Charterer has the option to give and Owner will accept written guarantee of Charterer to cover any contribution of the goods and any salvage and special charges thereon as may be required to be made by the goods, shippers, consignees or owners of the goods.	323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339
CLAUSE PARAMOUNT	47. Bills of Lading issued hereunder shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, approved April 16, 1936, except that if any Bill of Lading is issued at a place where any other act, ordinance or legislation gives statutory effect to the International Convention for the Unification of Certain Rules relating to Bills of Lading at Brussels, August 24, 1924, then the Bill of Lading shall have effect subject to the provisions of such act, ordinance or legislation. The applicable act, ordinance or legislation (hereinafter called the "act") shall be deemed to be incorporated in the Bills of Lading issued hereunder and nothing therein contained shall be deemed a surrender by the Owner or carrier of any of their rights or immunities or an assumption of any of their responsibilities or liabilities under the act. If any terms of the Bills of Lading issued hereunder be repugnant to the act to any extent, such term shall be void to that extent but no further.	340 341 342 343 344 345 346 347
LAW	48. This charter shall, so far as possible, be governed by the laws of the flag of the vessel, except in cases of general average, which shall be adjusted, stated and settled according to York/Antwerp Rules 1950 and, as in matters not provided for by these rules, according to the laws and usages at the port of New York. If a General Average statement is required, it shall be prepared at such port or place in the United States as selected by Owner, unless otherwise mutually agreed, by an Adjuster appointed by Owner and approved by Charterer, who shall attend to the settlement and collection of the General Average, subject to customary charges. General Average Agreements and/or security shall be furnished by Owner and/or Charterer, and/or Owner and/or Consignee of cargo, if requested. Any cash deposit being made as security to pay General Average and/or salvage shall be remitted to the Average Adjuster and shall be held by him at his risk in a special account in a duly authorized and licensed bank at the place where the General Average statement is prepared. Should the vessel put into a port of distress or be under average, she is to be consigned to the Owner's agents, paying them the usual charges and commissions.	348 349 350 351 352 353 354 355 356
LIMITATION OF LIABILITY	49. Any provision of this charter to the contrary notwithstanding, Owner shall have the benefit of all limitations of, and exemptions from, liability accorded to the owner or chartered owner of vessels by any statute or rule of law for the time being in force.	357 358
COMMISSION	50. <sup>11</sup> per cent commission shall be due by the vessel and her Owner on all hire as paid under this charter to Boyd, Weir & Sewell, Inc.	359 360
ARBITRATION	51. Any and all differences and disputes of whatsoever nature arising out of this charter shall be put to arbitration in the City of <del>NEW YORK</del> NEW YORK, pursuant to the laws relating to arbitration there in force, before a board of three persons, consisting of one arbitrator to be appointed by Owner, one by Charterer, and one by the two so chosen. The decision of any two of the three on any point or points shall be final. Either party hereto may call for such arbitration by service upon any officer of the other, wherever he may be found, of a written notice specifying the nature and address of the arbitrator chosen by the first moving party and a brief description of the disputes or differences which such party desires to put to arbitration. If the other party shall not, by notice served upon an officer of the first moving party within twenty days of the service of such first notice, appoint its arbitrator to arbitrate the disputes or differences specified then the first moving party shall have the right without further notice to appoint a second arbitrator, who shall be a disinterested person, with precisely the same force and effect as if said second arbitrator had been appointed by the other party. In the event that the two arbitrators fail to appoint a third arbitrator within twenty days of the appointment of the second arbitrator, either arbitrator may apply to a judge of any court of maritime jurisdiction in the city above mentioned for the appointment of a third arbitrator, and the appointment of such arbitrator by such judge on such application shall have precisely the same force and effect as if such arbitrator had been appointed by the two arbitrators. Until such time as the arbitrators finally close the hearings either party shall have the right by written notice served on the arbitrators and on an officer of the other party to specify further disputes or differences under this charter for hearing and determination. Awards made in pursuance to this clause may include costs, including a reasonable allowance for attorneys' fees, and judgment may be entered upon any award made hereunder in any court having jurisdiction in the premises.	361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS CHARTER TO BE EXECUTED IN DUPLICATE THE DAY AND YEAR HEREIN FIRST ABOVE WRITTEN.

FOR COMPANIA "PELINEON"  
DE NAVEGACION S.A.

WITNESS TO SIGNATURE OF

*R. F. Cooke*

WITNESS TO SIGNATURE OF

R. F. Cooke

*W. W. Graham*  
W. W. Graham

*W. W. Graham*  
DIRECTOR

GULF OIL CORPORATION

*R. F. Cooke*  
R. F. Cooke, Attorney-in-Fact

201a  
Plaintiff's Exhibit 24

DESCRIPTION OF VESSEL

This form is to be completed and returned as soon as possible after charter negotiations are commenced. When completed and agreed the form will be incorporated into the Charter Party and the particulars contained therein will be taken as representations by Owners, except as otherwise specifically provided, and binding upon them.

s.t. CAPETAN MATHIOS

Particulars to be Completed.

1. CLASSIFICATION HIGHEST CLASS NORWEGIAN VERITAS + 1A1
2. DEADWEIGHT (Classified summer freeboard) 30,220 tons
3. DIMENSIONS
  - (a) Length overall 666 ft. 4 1/2 ins.
  - (b) Length between perpendiculars 625 ft. 4 1/2 ins.
  - (c) Beam extreme 81 ft. 0 ins.
  - (d) Draft fully laden in salt water on classified summer freeboard 34 ft. 11 1/2 ins.
  - (e) Underwater length measured between perpendiculars drawn at the after side of the rudder plate and at the foreside of the foremost extremity of any part of the hull which is below the horizontal line drawn through the top of the rudder plate 642 ft. 9 ins.
4. MACHINERY
  - (a) Type of Propelling Machinery DE LAVAL STEAM TURBINES
  - (b) Maximum rated B.H.P. and R.P.M. 13,000 B.H.P. at 109 R.P.M.
  - (c) Proposed service B.H.P. and R.P.M. 12,000 B.H.P. at 106 R.P.M.
5. BOILER AND STEAM CAPACITY
  - (a) Number and type WATER TUBE No. 148 V2M
  - (b) Total heating surface 11,304 sq. ft. sq. ft.
  - (c) Total service steam capacity 68,000 lbs. per hr.
  - (d) Estimated maximum temperature at which can maintain cargo heating 435 Degrees F.
  - (e) Estimated steam required for maintaining heating as in (d) above 30,000 lbs. per hr.
  - (f) Estimated steam required for essential auxiliaries and ship's services 30,000 lbs. per hr.
  - (g) Net steam available for driving cargo pumps (i.e. total steam available less that required for maintaining heat of cargo, driving auxiliaries and ship's services) 70,000 lbs per hr.
6. SPEED AND CONSUMPTION
  - (a) Speed on fully loaded trials at service B.H.P. and R.P.M. (as for 4(c) above) 16.60 kts.
  - (b) Average service speed 16.00 kts.
  - (c) Fuel consumption per day at sea for all purposes except cargo heating or tank cleaning at average service speed:
    - (1) Main engines or boilers 70 tons per day  
Grade of bunkers Bunker C
    - (2) Auxiliary boilers (if auxiliaries are electrically driven consumption of diesel generators) L.P. Steam Generator. tons per day  
Grade of bunkers \_\_\_\_\_
7. BUNKER AND WATER CAPACITY
 

STEAMING RANGES

	Fuel	Diesel
(a) Maximum rates at which lines will receive bunkers	<u>350/400</u> t.p.h.	t.p.h.
(b) Capacity of bunker tanks	<u>3.025</u> tons	tons

202a  
Plaintiff's Exhibit 24

Particulars to be  
Completed.

- (c) Number of grades of bunkers can segregate 2 Bunker C and Diesel grades
- (d) Capacity of water tanks 1300 tons
- (e) Steaming range afforded by capacity of bunker tanks 16,000 miles
- (f) Steaming range afforded by capacity of water tanks and/or evaporators 16,000 miles

### LOADING/DISCHARGING ARRANGEMENTS

#### 8. CARGO TANKS

- (a) Number of compartments 11 Center, 6 Port, 6 Strb'd.
- (b) Total capacity in fresh water tons (98% full) 37,204.8 tons
- (c) Number of grades can segregate with two valve separation Three grades
- (d) Vessel can load/discharge cargo with up to 16 lbs. Reid's vapor pressure yes

#### 9. CARGO LOADING PERFORMANCE

- (a) Maximum rate at which vessel can load homogenous cargo 4,000 tons per hour
- (b) Maximum rate at which vessel can load each grade when loading two grades simultaneously 2,000 tons per hour

#### 10. AMIDSHIPS LOADING AND DISCHARGING MANIFOLDS

- (a) What is the distance of manifolds from amidships? 10 feet 04 inches
- (b) Distance of manifold flanges from ship's rail 12 feet 06 inches
- (c) Height of centers of flanges above deck or working platform 3 feet 01 inches
- (d) Distance between centers of manifold flanges 3 feet 06 inches
- (e) Is vessel equipped with sufficient reducing pieces to enable loading and discharging connections on port or starboard sides to be connected to 12", 10" or 8" hoses? YES
- (f) Number of loading/discharging lines can connect on each side 4 1. at 13'3" 2. at 29'9" 3. at 150'0" 4. at 160'0"
- (g) Number and position of bunkering connections relative to loading/discharging manifolds 1 amidships and 1 at stern
- (h) Number and position of watering connections relative to loading/discharging manifolds On ships fire line 30 feet from Manifolds

#### 11. CARGO AND BUNKERING LINES

Does arrangement of cargo lines, valves, gas vents, etc. permit:

- (a) Stern as well as normal amidships loading/discharging for
- (1) Cargo Yes
- (2) Bunkers Yes
- (b) State number of grades can load/discharge simultaneously through amidship connection with two valve separation without risk of contamination Three grades

#### 12. BALLASTING SYSTEM

- (a) Is vessel equipped with separate ballasting system? NO
- (b) State percentage of ship's summer deadweight separate system can contain - %
- (c) Time required load and discharge quantity of ballast as in (b)
- (1) Load 4 hrs.
- (2) Discharge 4 hrs.



## Plaintiff's Exhibit 24

Particulars to be  
Completed.

## 13. CARGO PUMPS

- (a) Number 3
- (b) Make DRYSDALE
- (c) Type Centrifugal
- (1) If reciprocating:  
State distance from suction valve plates to base line of vessel \_\_\_\_\_
- (2) If Centrifugal:  
State distance from center of impeller to base line of vessel \_\_\_\_\_
- (d) Size 2
- (e) Designed rated capacity of each pump in water tons per hour at 200 lb. p.s.i.  
pressure at the pump 1000 w.t.p.h.
- (f) Estimated steam consumption of each pump discharging to capacity against  
200 lbs. p.s.i. pressure at the pump 10,000 lbs. per hour

## 14. STRIPPING PUMPS

- (a) Number and size 2 Vertical Duplex 15 1/2 x 11 1/2 x 15"
- (b) Capacity of each pump in water tons per hour against pressure at 200 lbs.  
p.s.i. at the pump 150 w.t.p.h.

## 15. HEATING COILS

- (a) Type of coils and material of which manufactured Aluminum and Steel
- (b) Volume of tank per sq. ft. of heating surface
- (1) Center tanks \_\_\_\_\_ cu. ft.
- (2) Side tanks \_\_\_\_\_ cu. ft.
- (c) Height of coils from tank bottoms 6 inches

## 16. GENERAL

- (a) Type of tank cleaning equipment fitted Butterworth
- (b) Type of gas extraction equipment fitted \_\_\_\_\_
- (c) Cubic capacity of forehold 46,000 cu. ft.
- (d) Is forehold registered for low flash cargoes? no
- (e) Safe working load of derrick or davit of poop deck 5 tons
- (f) Safe working load of derricks in way of manifold 5 tons
- (g) Safe working load of derrick for handling forehold cargo 5 tons
- (h) Type of Radio Telephone fitted NEDA
- (i) Type of Automatic Pilot fitted AEG
- (j) Type of Echo Sounder fitted SINSTAD
- (k) Type of Radar fitted DECCA RM 426 and 404
- (l) Is Decca Navigator fitted? NO
- (m) Is submerged log fitted? Yes
- (n) Are any auxiliaries run on gasoil? NO
- If so give details of consumption \_\_\_\_\_

- (o) Type of power used for steering machinery ELECTRIC
- (p) Type of galley and fuel required ELECTRIC
- (q) Type of winches, (Electric, steam, etc.) STEAM
- (r) Are tensioning winches and wires fitted? NO
- (s) Is Suez Canal Projector fitted? YES
- (t) If vessel's dimensions compatible with Panama Canal transit will she comply with Panama Canal Regulations for the carriage of:
- (1) Grade "A" cargoes YES
- (2) Grade "B" cargoes "
- (3) Grade "C" cargoes "
- (4) Grade "D" cargoes "

N.B. When submitting this Form the following plans should be attached:

- (1) General Arrangement Plan
- (2) Pumping Arrangement Plan
- (3) Plan of Cargo Tank Ventilating System
- (4) Characteristic Curves of pumps if Centrifugal pumps installed.

205a  
Plaintiff's Exhibit 25

BETHLEHEM STEEL CORPORATION

25 BROADWAY, NEW YORK, N. Y. 10004

June 18, 1973

INVOICE NUMBER 1533-688  
BILL TO ORDER 3924

421190 347 28 28 2909 450 3 X-9

S/T "CAPETAN MATHIOS" & Owners  
Homerie Maritime Agencies, Inc.,  
17 Battery Place  
New York, N.Y. 10004

YARD Hoboken

JOB

TERMS: Cash on Recp't of Invoice  
TOTAL INVOICE AMOUNT: \$ 3,535.00

Repair Dates:

March 29, 1973  
April 19, 1973

1. PAINTING SERVICES

Furnished services of water, crane and lighting for painters for washing down and painting hull.

(7) \$ 250.00

2. LOADING HANDLING BOOM, STARBOARD

Unshipped 5-ton boom and sent to shop.

Drilled two (2) 5/16" holes in boom and had boom checked for gas.

Straightened boom where bent.

Scaled area was repaired.

Furnished 3/8" x 36" x 10" diameter steel plate doubler in two (2) halves.

Installed and welded in way of faired area.

Welded both 5/16" drilled holes.

Cleaned and coated doubler with two (2) coats of red lead paint.

Transported to vessel, rigged into position and installed.

Did not test boom due to gaseous condition of vessel.

(8) 1,705.00

3. CRANE SERVICES

Furnished services of riggers and crane to place on board miscellaneous pieces of equipment, stores, etc.

Also removed parts and miscellaneous lifts from engineroom as requested.

(9) 450.00

# INVOICE

We will not be liable for damages or delays caused by strikes, accidents, or events which are unavoidable or not under our control.

Our charges for vessel repair, drydocking and other services are based on liabilities limited as follows which shall be applicable in lieu of any other liability express or implied. For loss of or damage to any vessel, its contents or appurtenances, however caused, our aggregate liability to the vessel and parties in interest is limited to \$300,000. In case of personal injury, death or damage to the vessel or other property we shall be liable only where same is caused by our sole negligence except that following completion of the work our liability to the vessel or parties in interest shall be limited strictly to replacement, without charge, of one of our plants, of workmanship or material furnished by us which proves defective under normal service conditions, upon written claim made within 60 days after completion of the work or redelivery of the vessel, whichever shall first occur, and shall not include any liability to the vessel or parties in interest for vessel delay, cargo damage, crew wages or consequential damages of any sort. The vessel and Owner shall indemnify and hold us harmless from any liability for air or water pollution attributable to the vessel except when shown affirmatively to have been caused by our sole negligence. Clauses in customers' instructions or specifications which seek to alter or add to the foregoing in any respect will not be deemed applicable except as stated below.

We are willing to accept vessels on the basis of different or more extensive liabilities than the foregoing but only if a special agreement shall be entered into before commencement of the work, declaring value of the vessel, its contents and appurtenances, and providing for payment to us, in addition to our normal charges for vessel repair, drydocking or other service, of the cost of appropriate insurance. Delivery of the vessel or authorization to start work without such special agreement shall be deemed an acceptance of our regular terms and conditions as stated above.

Assurance is hereby given that the goods herein referred to were produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.





S/T "CAPETAN MATHIOS"  
3924

Sheet #2

4. SEA CHEST STRAINERS  
Cleaned openings of all sea chest strainers total of nine (9).  
Rigged necessary staging. Removed main low injection sea chest  
strainer plates (two halves).  
Sent to machine shop and enlarged holes to 1".  
Furnished and installed twenty-four (24) 7/8" x 4" studs.  
Drilled, tapped, backed up with steel nut and welded.  
Cleaned chest and strainer. Painted chest.  
Installed strainer plates. Furnished and installed twenty-four (24)  
7/8" brass nuts.  
Removed staging.  
(10) 490.00
5. FRESH WATER  
Connected up hose and furnished fresh water to vessel as requested.  
Used \_\_\_\_\_ tons.  
(11) 175.00
6. HOSES AND SERVICES  
Furnished and connected up 1-1/2" hoses and valve for crews use.  
(12) 165.00
7. INSULATION  
Furnished services of labor and material, insulated #1 generator  
steam turbine casing and associated piping.  
(15) 300.00

AMOUNT DUE THIS INVOICE.....\$ 3,535.00

### VERBALE OPERAZIONI

Gulf oil T/C

CARGO

## Demuxrage

Total Cargo Income

114 % Commission

TOTAL NET FREIGHT

[illegible]

	116,347.22
	114,54.34
	114,892.68

EXPENSES

COYAGE INFORMATION

## Ballast

## Voyage

### Loading

### Discharging

## Index

30.4 total @ \$ 1.600 ✓  
per day

## LINKERS

Days at Sea	Tons
1	100
2	200
3	300
4	400
5	500
6	600
7	700
8	800
9	900
10	1000
11	1100
12	1200
13	1300
14	1400
15	1500
16	1600
17	1700
18	1800
19	1900
20	2000
21	2100
22	2200
23	2300
24	2400
25	2500
26	2600
27	2700
28	2800
29	2900
30	3000
31	3100
32	3200
33	3300
34	3400
35	3500
36	3600
37	3700
38	3800
39	3900
40	4000
41	4100
42	4200
43	4300
44	4400
45	4500
46	4600
47	4700
48	4800
49	4900
50	5000
51	5100
52	5200
53	5300
54	5400
55	5500
56	5600
57	5700
58	5800
59	5900
60	6000
61	6100
62	6200
63	6300
64	6400
65	6500
66	6600
67	6700
68	6800
69	6900
70	7000
71	7100
72	7200
73	7300
74	7400
75	7500
76	7600
77	7700
78	7800
79	7900
80	8000
81	8100
82	8200
83	8300
84	8400
85	8500
86	8600
87	8700
88	8800
89	8900
90	9000
91	9100
92	9200
93	9300
94	9400
95	9500
96	9600
97	9700
98	9800
99	9900
100	10000

Days in Fort	Tons
1	10
2	20
3	30
4	40
5	50
6	60
7	70
8	80
9	90
10	100
11	110
12	120
13	130
14	140
15	150
16	160
17	170
18	180
19	190
20	200
21	210
22	220
23	230
24	240
25	250
26	260
27	270
28	280
29	290
30	300
31	310
32	320
33	330
34	340
35	350
36	360
37	370
38	380
39	390
40	400
41	410
42	420
43	430
44	440
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46	460
47	470
48	480
49	490
50	500
51	510
52	520
53	530
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57	570
58	580
59	590
60	600
61	610
62	620
63	630
64	640
65	650
66	660
67	670
68	680
69	690
70	700
71	710
72	720
73	730
74	740
75	750
76	760
77	770
78	780
79	790
80	800
81	810
82	820
83	830
84	840
85	850
86	860
87	870
88	880
89	890
90	900
91	910
92	920
93	930
94	940
95	950
96	960
97	970
98	980
99	990
100	1000

Extra \_\_\_\_\_ Tons \_\_\_\_\_

TOTAL \_\_\_\_\_ 63.

CADINE FORT

### Port Expenses

### Loading Expenses

ISCHIAZOTING PORT

## Port Expenses

Discharging expenses

### OTHER EXPENSES

## Bunkering Forc Exp.

Despatch

### Canal Expenses

## Miscellaneous

	Est.	Exp.	True Exp.
1960	100	100	100
1961	100	100	100
1962	100	100	100
1963	100	100	100
1964	100	100	100
1965	100	100	100
1966	100	100	100
1967	100	100	100
1968	100	100	100
1969	100	100	100
1970	100	100	100
1971	100	100	100
1972	100	100	100
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2004	100	100	100
2005	100	100	100
2006	100	100	100
2007	100	100	100
2008	100	100	100
2009	100	100	100
2010	100	100	100
2011	100	100	100
2012	100	100	100
2013	100	100	100
2014	100	100	100
2015	100	100	100
2016	100	100	100
2017	100	100	100
2018	100	100	100
2019	100	100	100
2020	100	100	100
2021	100	100	100
2022	100	100	100
2023	100	100	100
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2026	100	100	100
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2054	100	100	100
2055	100	100	100
2056	100	100	100
2057	100	100	100
2058	100	100	100
2059	100	100	100
2060	100	100	100
2061	100	100	100
2062	100	100	100
2063	100	100	100</

48,640	
48,640	
66,252.68	

$$\$ 2,179.36 \times 25.179 \text{ mm}$$

\$ 54,874.22

TOTAL ENTITIES

TOTAL PROFIT / LOSS

ST. TOTAL 30.4 Days

TRUE TOTAL \_\_\_\_\_ Days

\$ 2,179.36 per day

\$\_\_\_\_\_per day

## Plaintiff's Exhibit 32

S.T. "CAPETAN MATHIOS"

- 1) If there have been no extension from any cause the vessel would have been redelivered August 24th, 1973 at 0055 hrs.
- 2) Extensions under Charter are:  
 One month more/or less  
 Off-Hire
 

30 Days
38 Days 20 hrs 04 min
<u>68 Days 20 hrs 04 min</u>
- 3) 68 d -20 h - 04 m from 0055 hrs August 24, 1973 is 2059 hrs October 31st, 1973.
- 4) On completion of voyage to San Juan on October 25th, 1973 at 2345 hrs, how much time was left on the Charter?
 

Oct 31 - 2059 hrs	- time of redelivery per Charter
Oct 25 - 2345 hrs	- time sailed from San Juan
<u>5 Days-21 hrs-16 min</u>	- Time left on Charter.
- 5) How long would a voyage from San Juan to Balao, Ecuador, and return to San Juan have taken?
 

Actual time was:	Oct 25 - 2345 hrs	- Sailed San Juan
	Nov 8 - 1145 hrs	- Returned San Juan
Elapsed Time	: <u>13 Days - 12 hrs</u>	



209a

Plaintiff's Exhibit 32

Messrs. HOMERIC MARITIME AGENCIES, INC.

SEPTEMBER 1, 1971

and Owners of M/T "CAPETAN MATHIOS"

In account with

Boyd, Weir &amp; Sewell, Inc.,

17 BATTERY PLACE, NEW YORK, N. Y. 10004

Voucher No.

Dr.

Cr.

M/T "CAPETAN MATHIOS" - T/C SEPTEMBER 19, 1969

Balance of Charter Hire - 20th Month

August 1, (0000) - August 31, 1971 (2400)

8/1/71 (0000) - 8/24/71 (0055) Hrs.

$$\frac{30,220 \text{ DWT} \times \$2.25}{31} \times 23.03819 = \$50,534.39$$

8/24/71 (0055) hrs. - 8/31/71 (2400) hrs

$$\frac{30,220 \text{ DWT} \times \$3.85}{31} \times 7.961806 = \$29,881.68$$

\$80,416.07

Previously Paid

\$67,995.00

12,421.07

DR.

Refund Crew overtime @ \$550.00 per month  
for period 8/24/71 0055 hrs. -  
8/31/71 2400 hrs.

$$\frac{\$550}{31} \times 7.961806$$

141. 26

Commission @ 1-1/4%

155. 26

Balance Due - Check Attached

12,124. 55

12,421. 07 12,421.07

*Boyd, Weir & Sewell*  
INCORPORATED

*Steamship Agents and Ship Brokers*

*47 Battery Place*

*New York, N.Y. 10004*

May 28, 1971

ADDENDUM NO. 1

S/S "CAPETAN MATHIOS"

Referring to charter party dated New York, N. Y. September 19, 1969 between COMPANIA PELINEON DE NAVIGACION S. A., Owners and GULF OIL CORPORATION, Charterers of the Greek S/S "CAPETAN MATHIOS", it is this day mutually agreed that:

1. This charter party has been extended for a further period of two years, one month more or less, at Charterers option. This additional period to run in direct continuation upon expiration of the above charter without cessation of hire.
2. Time charter hire under this Addendum is to be \$3.85 per DWT per month.
3. Lump sum overtime to officers and crew under Clause 7 is \$150.00 for each loading port and \$200.00 for each discharging port, which sums include costs of meals, telephone, radio and telegrams.
4. Under Clause 24, delete lines 190 and 191 and insert "Once annually Charterer is to schedule the vessel to the United Kingdom or Continent or Mediterranean Sea to enable the vessel to drydock and/or repair. In the event the Charterer is unable to programme the vessel to the United Kingdom or Continent or Mediterranean then the Charterer shall release the vessel to Owner in the Caribbean Sea to enable Owner to arrange such voyage and the vessel will be off hire from the time of her release to Owners until her subsequent return to Charterer's service in the Caribbean Sea. Owner has the right to either ballast the vessel or carry cargoes for their own account in either or both directions."
5. In Clause 39 add "any increase in War Risk Insurance premiums and/or war bonus to Officers and/or crew over these in effect as of May 28, 1971, is for Charterer's account."
6. "If the Owner is required to establish or maintain financial security or responsibility in respect of oil or other pollution damage to enable the Vessel lawfully to enter, remain in or leave any port, place, territorial or contiguous waters of any country or state in performance of this charter party, the Charterers shall make

NON TUMAG OFF HIRK:

9/20/75

36-20-58

- 17-38 =  $\frac{1}{2}(1-11-15)$

1-5-28

38-20-04



TUMAG OFF HIRK:

2-~~5~~-25

22-22-52

25-4-17

38-20-04

25-4-17

64-0-21



# Gulf Oil Company - Transportation

1290 Avenue of the Americas, New York, New York 10019

August 27, 1973

RECEIVED

AUG 28 1973

B. W. & S.

Boyd, Weir & Sewell, Inc.  
17 Battery Place  
New York, N. Y.

Attention: Mr. Joseph Christopher

Gentlemen:

S/S "CAPETAN MATHEOS"  
C/P Dated 9/19/69  
Addendum No. 1 - Dated 5/28/71

Referring to our telegram of June 28, 1971 wherein we declared our option to add all off-hire to the charter which has accrued since August 24, 1971 and which may accrue up to September 24, 1973 (the expiration date of the charter), as of this date our records indicate the vessel was off-hire during the following periods:

<u>PERIOD</u>	<u>DESCRIPTION</u>	<u>D - H - M</u>
3/21-4/26/72	Drydocking - Hoboken	36 - 20 - 58
9/29-10/1/72	Repairs - Tumaco	2 - 5 - 25
2/17-2/18/73	Hvy. Tank Sediment - Amuay Bay	1 - 11 - 15
3/29-4/19/73	Drydocking - New York	22 - 22 - 52
6/9 -6/10/73	Repairs - Panama Canal	1 - 5 - 28

Very truly yours,

GULFTANKERS, INC.

*W. W. Graham*

W. W. Graham

Director of Chartering

WNG/ps



Sept 26 SAILED PUERTO LA CRUZ 1900  
 " 28 ARRIVED SAN JUAN 0715  
 " 29 SAILED SAN JUAN  
 " 30 ARRIVED PUERTO LA CRUZ <sup>MIRANDA</sup> 2245 (VY 118)  
 OCT 3 SAILED PUERTO LA CRUZ <sup>MIRANDA</sup> 1600  
 " 5 ARRIVED SAN JUAN 1000  
 " 6 SAILED SAN JUAN 1400  
 " 7 ARRIVED PUERTO LA CRUZ 2300 (VY 119)  
 " 9 SAILED PUERTO LA CRUZ 0530  
 " 14 ARRIVED PHILADELPHIA 1330  
 " 17 SAILED PHILADELPHIA 2200  
 " 22 ARRIVED PUERTO LA CRUZ 1200 (VY 120)  
 " 23 SAILED PUERTO LA CRUZ 0745  
 " 24 ARRIVED SAN JUAN 1745  
 " 25 SAILED SAN JUAN 2345  
 " 28 ARRIVED CRISTOBAL 0945  
 " 29 SAILED BALBOA  
 " 31 ARRIVED BALBOA 0015 (VY 121)  
 NOVEMBER 2 SAILED BALBOA 0615  
 " 3 ARRIVED BALBOA 1115  
 " 4 SAILED CRISTOBAL 1300  
 " 7 ARRIVED SAN JUAN 0615  
 " 8 SAILED SAN JUAN 1145  
 " 9 ARRIVED PUERTO LA CRUZ 18 (VY 122)  
 " 11 SAILED PUERTO LA CRUZ 1125  
 " 16 ARRIVED PHILADELPHIA 1800  
 " 18 SAILED PHILADELPHIA 1235

## Plaintiff's Exhibit 35

S.T. CAIRN MATHIS  
LOSS ESTIMATE

Average

W 375

\$ 358,171.275

54,374.900 - Profit

\$ 303,796.375

97,077.26

Off Hand Due

\$ 400,873.635

C. Mathis

## VOYAGES MADE

1) BALAO / SAN JUAN / PUERTO LA CRUZ

12 Days Profit 240,531. ✓

2) PUERTO LA CRUZ / PHILADELPHIA - PHOENIX / ARUBA

13 Days Profit 142,435

2.5 Days Profit 7,500

149,935

\$ 390,516

Sub 29,115

11/1/15



## Defendant's Exhibit D

257

PIRAEUS SHIPPING OFFICES AND THE VESSELS THEY REPRESENT  
 ΠΑΡΑΡΤΗΜΑ ΓΡΑΦΕΙΑ ΠΕΙΡΑΙΩΣ ΚΑΙ ΤΑ ΥΠ' ΑΥΤΩΝ ΠΡΑΚΤΟΡΕΥΟΜΕΝΑ ΠΛΟΙΑ

## EVRON (HELLAS) AGENCIES

8, Dragatsaniou Street, Athens, Tel: 322.3645, 322.1801

Cables: " EVRONAGREK " Telex: 21.5883

Director: G. Coutroubis

NEW YORK AGENTS: Evron Agencies Inc. Tel: WH. 3. 4900

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
ALKMAN	Alkman Inc. Monrovia	OCEANICA	Oceanica Inc. Monrovia
CHRISTITSA	Pacific Corp. Monrovia	THEODORE	Neptunian Inc. Monrovia
LOUSSIOS	Ikan Corp. Monrovia		

## EVRYALOS SHIPPING AGENCIES S. A. PANAMA

35/39, Akti Miaouli, Piraeus, Tel: 452.5378, 452.7898

Cables: " EVRYMAR " Telex: 21.2598

Dirs: Capt. John G. Costis, Capt. Antonios N. Tsaoussis

Vessel's Name	Shipowning Company
LISSABON	Pagasse Comp. Nav. S. A. Panama

## EZKOS MARITIME TECHNICAL COMPANY LIMITED

5, Akti Miaouli, Piraeus, Tel: 421.330, 475.148

Cables: " EZKOS " Telex: 21.2526

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
AMIMONI	Tamis S. A. Panama	CAPETAN CHRISTOS P.	Kalisto Comp. Mar. S. A. Panama
CAPETAN ANDREAS P.	Aghia Barbara Comp. Mar. S. A. Pan.		

## FAFALIOS SHIPPING S. A.

35-37, Akti Miaouli, Piraeus, Tel: 452.0026, 452.0034

Cables: " ANETYH " Telex: 21.2280

Dirs: P. S. Fafalios - C. D. Fafalios

LONDON AGENTS: Fafalios Limited Tel: 626.2332

NEW YORK AGENTS: Homeric Maritime Agencies Inc. Tel: 425.7430

HAMILTON AGENTS: Santa Maria Shipowning &amp; Trading Co. Ltd.

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
ALKYON	Alkyonia Comp. de Nav. S. A. Pan.	FEAX	Messinia Comp. de Nav. S. A. Panama
ALOUETTE	Carinthia Comp. de Nav. S. A. Pan.	FINIX	Santa Caterina Comp. Nav. S. A. Panama
AMAZON	Acomania Comp. de Nav. S. A. Pan.	FLISVOS	Arcadia Comp. de Nav. S. A. Panama
ANGELA F.	Kyparissia Comp. de Nav. S. A. Pan.	GEORGIAN GLORY	Rubystar Shipping Corp. Panama
ARMONIA	Armania Comp. de Nav. S. A. Pan.	MARIA	Ionian Comp. de Nav. S. A. Panama
CAPETAN LUKIS	Laconia Comp. de Nav. S. A. Pan.	MARIONGA	Trifolia Comp. de Nav. S. A. Panama
CAPETAN MATHIOS	Pellinean Comp. de Nav. S. A. Pan.	NEA TYHI	Achilles Comp. de Nav. S. A. Panama
CAPTAIN ANASTASSIS	Santa Cecilia Co. S. A. Panama	OTHON	Aegean Comp. de Nav. S. A. Panama
DESPINA	Aeolia Comp. de Nav. S. A. Pan.	SANTA ALICIA	Santa Alicia Comp. Nav. S. A. Panama
DIMITRIOS	Filiari Comp. de Nav. S. A. Pan.	SANTA CONSTANCE	Santa Cecilia Co. S. A. Panama
ESPERIS	Argolia Comp. de Nav. S. A. Pan.	SANTA MARIA	Santa Maria Shipowning & Trad. Co.
FAETHON	Vioria Comp. de Nav. S. A. Pan.	STAMOS	La Poseidonia Comp. de Nav. S. A. Panama

## FAIRCAPE STEAMSHIP CORPORATION

21, Alexandras Avenue, Athens, Tel: 642.7787

Cables: " PALEO "

Director: D. J. Palaiocrassas

Vessel's Name	Shipowning Company
STAMATIOS	Faircape Steamship Corp. Athens

## Defendant's Exhibit D

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LONDON SHIPPING OFFICES AND THE VESSELS THEY REPRESENT  
 ΝΑΥΤΙΚΑ ΓΡΑΦΕΙΑ ΛΟΝΔΙΝΟΥ ΚΑΙ ΤΑ ΥΠ' ΑΥΤΩΝ ΠΡΑΚΤΟΡΕΥΟΜΕΝΑ ΠΛΟΙΑ

## EMBRICOS S.G. LTD. (Continued)

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
DOCTIAN	Resolute Comp. Nav. S. A. Panama	NICOLAOS S. EMBIRICOS	Navegadora Ultramar S. A. Panama
DOCTIEFS	Doriefs Comp. Nav. S. A. Panama	NIKY	Atlantica Armadores S. A. Panama
DORIS	Doris Comp. Nav. S. A. Panama	OPPORTUNITY	La Empresa Comp. Nav. S. A. Panama
DORYFOROS	Dolfin Marine Corp. Monrovia	PANAGHIA THEOSKEPASTI	Casaya Comp. Nav. S. A. Panama
EUGENIE S. EMBIRICOS	Los Santos Comp. Nav. S. A. Panama	RESOLUTE	Interamerican Nav. Soc. S. A. Panama
GEORGE S. EMBIRICOS	Alba Steamship Co. Ltd. Panama	S. G. EMBIRICOS	Cyclades Comp. Nav. S. A. Panama
HYDROUSSA	Hydroussa Comp. Nav. S. A. Panama	SAN NICOLAOS	Yavisa Comp. de Nav. S. A. Panama
LEONIDAS Z. CAMBANIS	Fairseas Marine Corp. Monrovia	SANTIAGO	Santiago Steamship Co. Ltd. Panama
MINA	Castella Comp. Nav. S. A. Panama	STAMATIOS G. EMBIRICOS	Edina Comp. Nav. S. A. Panama
MINA L. CAMBANIS	Mareblema Nav. S. A. Panama		

## EMBRICOS SHIPPING AGENCY LIMITED

Boston Hse, 132, Cheapside E. C. 2 Tel: 606.4362/4

Cables: "EMBISHIP" Telex: 88.6958

Drs: G. E. Embiricos-E. G. Embiricos - C. Patsalides

PIRAEUS AGENTS: Buenamar Compania Naviera S. A. Tel: 623.622

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
APILIOTIS	Reinante Transoceanica Nav. S. A. Pan.	NOTOS	Canaria Armadora S. A. Panama
LEVANTES	Pangalante Armadora S. A. Panama	SPIIADA	Naves Transatlantica Nav. S. A. Panama
MAISTROS	Aurora Borealis Co. Armadora S. A. Pan.	VORRAS	Transauntana Armadora S. A. Panama

## EPIROTIKI LINES (LONDON) LIMITED

91, Regent Street, W. 1 Tel: 734.0805

Cables: "EPIRLINE" Telex: 27751

PIRAEUS AGENTS: Epirotiki Lines S. A. Tel: 420.644

NEW YORK AGENTS: Epirotiki Lines Inc. Tel: 265.6130

HAMBURG AGENTS: Epirotiki Lines Tel: 337.250

ROME AGENTS: Epirotiki Lines Tel: 476.806

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
ACHILLEUS	Potamianos & Ionian Lines Co. Ltd. Nic.	JASON	Epirotiki Lines S. A. Piraeus
APOLLON XI	Epirotiki Lines S. A. Piraeus	JUPITER	Epirotiki Lines S. A. Piraeus
ARGONAUT	Epirotiki Lines S. A. Piraeus	NEPTUNE	Epirotiki Lines S. A. Piraeus
ASPA MARIA	Alanje Comp. de Nav. S. A. Panama	ODYSSEUS	Epirotiki Lines S. A. Piraeus
ATLAS	World Wide Cruises S. A. Panama	ORPHEUS	Epirotiki Lines S. A. Piraeus
ELENI	Alanje Comp. de Nav. S. A. Panama	PEGASUS	Epirotiki Lines S. A. Piraeus
HELLAS	Alanje Comp. de Nav. S. A. Panama	SEMIRAMIS	Epirotiki Lines S. A. Piraeus
HERMES	Loima Shipping Ltd. Piraeus		

## FAFALIOS LIMITED

Dunster Hse, Mincing Lane, E. C. 3 Tel: 626.2332

Cables: "FAFALIOS" Telex: 88.6075

Drs: D. S. Fafalios-J. S. Fafalios-J. D. Fafalios

PIRAEUS AGENTS: Fafalios Shipping S. A. Tel: 452.0026

NEW YORK AGENTS: Homeric Maritime Agencies Inc. Tel: 425.7430

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
ALCYON	Alcyonia Comp. de Nav. S. A. Pan.	FAETHON	Viotia Comp. de Nav. S. A. Panama
ALOUETTE	Corinthia Comp. de Nav. S. A. Pan.	FEAX	Messinia Comp. de Nav. S. A. Panama
AMAZON	Acamonia Comp. de Nav. S. A. Pan.	FINIX	Santa Caterina Nav. S. A. Panama
ANGELA G.	Kyparisia Comp. de Nav. S. A. Pan.	FLISVOS	Arcadia Comp. de Nav. S. A. Panama
ARMONIA	Armonia Comp. de Nav. S. A. Pan.	GEORGIAN GLORY	Rubystar Ship. Corp. Panama
CAPETAN LUKIS	Laconia Comp. de Nav. S. A. Pan.	MARIA	Ionian Comp. de Nav. S. A. Panama
CAPETAN MATHIOS	Pellineon Comp. de Nav. S. A. Pan.	MARIONGA	Trifolia Comp. de Nav. S. A. Panama
CEPHNA	Aeolia Comp. de Nav. S. A. Panama	NEA TYHI	Achilles Comp. de Nav. S. A. Panama
CEMITIOS	Filiori Comp. de Nav. S. A. Panama	OTHON	Aegean Comp. de Nav. S. A. Panama
ESPERIS	Argolia Comp. de Nav. S. A. Panama	STAMOS	La Poseidonia Comp. de Nav. S. A. Pan.

FIDIAS

UNDER CONSTRUCTION



## Defendant's Exhibit D

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**NEW YORK SHIPPING OFFICES AND THE VESSELS THEY REPRESENT**  
**ΝΑΥΤΙΚΑ ΓΡΑΦΕΙΑ ΝΕΑΣ ΥΟΡΚΗΣ ΚΑΙ ΤΑ ΥΠ' ΑΥΤΩΝ ΠΡΑΚΤΟΡΕΥΟΜΕΝΑ ΠΛΟΙΑ**

**HOLLAND AMERICA LINE**

Pier 40, North River N.Y. 10014 Tel: 620.5121  
 Cables: " SUNLLOYD " Telex: 710.581

PIRAEUS AGENTS: Oceanic Sun Line Special Shipping Co. Inc. Tel: 452.3418  
 LONDON AGENTS: Holland America Line (London) Ltd. Tel: 930.1972

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
STELLA MARIS II	Sun Line Inc. Monrovia	STELLA SOLARIS II	Sun Line Inc. Monrovia
STELLA OCEANIS	Sun Line Inc. Monrovia		

**HOMERIC MARITIME AGENCIES INC.**

17, Battery Place N.Y. 10004, Tel: 425.7430

Cables: " HOMERICMAR " Telex: 421.426

Director: Nicholas Hatgis

PIRAEUS AGENTS: Fafalios Shipping S. A. Tel: 452.0026  
 LONDON AGENTS: Fafalios Limited Tel: 626.2332

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
ALKYON	Alcyonia Comp. de Nav. S. A. Pan.	FAETHON	Viotia Comp. de Nav. S. A. Panama
ALOUETTE	Corinthia Comp. de Nav. S. A. Pan.	FEAX	Messinia Comp. de Nav. S. A. Panama
AMAZON	Acarmania Comp. de Nav. S. A. Pan.	FINIX	Santa Caterina Comp. de Nav. S. A. Panama
ANGELA F.	Kyparissia Comp. de Nav. S. A. Pan.	ELISVOS	Arcadia Comp. de Nav. S. A. Panama
ARMONIA	Armania Comp. de Nav. S. A. Panama	GEORGIAN GLORY	Rubystar Shipping Corp. Panama
CAPETAN LUKIS	Laconia Comp. de Nav. S. A. Panama	MARIA	Ionian Comp. de Nav. S. A. Panama
CAPETAN MATHIOS	Pellineon Comp. de Nav. S. A. Panama	MARTONGA	Trifolia Comp. de Nav. S. A. Panama
DESPINA	Aeolia Comp. de Nav. S. A. Panama	NEA TYHI	Achilles Comp. de Nav. S. A. Panama
DIMITRIOS	Filiori Comp. de Nav. S. A. Panama	OTHON	Aegean Comp. de Nav. S. A. Panama
ESPERI	Argolia Comp. de Nav. S. A. Panama	STAMOS	La Poseidonia Comp. de Nav. S. A. Panama

**K & K MARINE CORPORATION**

17, Battery Place N.Y. 10004, Tel: 944.4034

Cables: " SPIRMAK " Telex: 24.423496

Director: Sp. E. Kopelakis

PIRAEUS AGENTS: Commercial Shipping Corporation S. A. Tel: 420.982 Galaxias Shipping Company Limited Tel: 452.0148  
 LONDON AGENTS: Union Commercial International Limited Tel: 488.4021

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
FELTO	Evagoras Ship. Co. Ltd. Nicosia	PERSA LYDIA	Elpana Shipping Co. S. A. Panama
GALAXY	Koryatis Ship. Co. Ltd. Nicosia	SISSY	Iliopan Shipping Co. S. A. Panama
GALAXY FAITH	Lyra Ship. Co. Ltd. Nicosia	STEELY CARRIER	Steelycarre Shipping Co. S. A. Panama
NOTIS	Alca Ship. Corp. Panama	STEELY RUNNER	Steelyrunner Shipping Co. S. A. Panama

**KARAVIAS (U. S. A.) INC.**

1212, Avenue of the Americas, Suite 2304, N.Y. 10036

Tel: 245.3820, Cables: " KARAVIAS " Telex: 224.703

Director: Capt. A. E. Karavias

PIRAEUS AGENTS: Karavias Emmanuel Ltd. Tel: 423.909  
 LONDON AGENTS: Karavias (London) Ltd. Tel: 588.3735

Vessel's Name	Shipowning Company	Vessel's Name	Shipowning Company
ST. ANNA	Saint Anna Marit. Co. Ltd. Monrovia	ST. HELEN	Saint Helen Marit. Co. Ltd. Monrovia
ST. ASIMI	Saint Asimi Marit. Co. Ltd. Monrovia	ST. MARIA	Saint Maria Marit. Co. Ltd. Monrovia
ST. ATHINA	Athina Marit. Co. Ltd. Monrovia	ST. NICHOLAS II	St. Grigorousa Marit. Co. Ltd. Monrovia
ST. CONSTANTINE	Saint Constant. Marit. Co. Ltd. Monrovia	ST. OLGA	Saint Olga Marit. Co. Ltd. Monrovia
ST. DEMETRIUS	Asimi Maritime Co. Ltd. Monrovia	ST. SOPHIA	St. Irene Marit. Co. Ltd. Mon. & S.
ST. EMMANUEL	Saint Emmanuel Marit. Co. Ltd. Monrovia	ST. SPYRIDON	Ionian Marit. Co. Ltd. Monrovia
ST. FOTINI	Saint Eirene Marit. Co. Ltd. Monrovia	TARSEUS	Saint Spyridon Marit. Co. Ltd. Monrovia
ST. GRIGOROUSA	Saint Nicholas Mar. Co. Ltd. Monrovia	TASSOS V.	Saint Anastasios Marit. Co. Ltd. Monrovia
ST. GEORGE III	St. George Mar. Co. Ltd. Monrovia	THEMISTOKLES	Themistokles Marit. Co. Ltd. Monrovia



### ANALYSIS OF DISCUSSIONS

10001  
101 (Ballast) ARUBA TO PENYACAN TO BATO GRANDE  
LES

INCOME

**CARGO**

	TONS	@
Demurrage		
Total Cargo Income		
% Commission		
<b>TOTAL NET FREIGHT</b>		

[illegible][illegible]

EXPENSES

Voyage Duration	
5	Ballast
4	Voyage
1	Loading
3	Discharging
	Extras
13	Total @ \$116.00 ✓
	per day

<u>True</u>	<u>Exp.</u>	<u>True Exp.</u>
-------------	-------------	------------------

TICKERS  
9 Days at Sea 60 Tons 540.  
4 Days in Port 25 Tons 100  
Extra          Tons           
 TOTAL 640. 6437.95  
 SPRING 5000 5758.00

ADING PORT 575 Vol 662  
Port Expenses \_\_\_\_\_  
Loading Expenses \_\_\_\_\_

**CHARGING PORT**  
Port Expenses  
Discharging Expenses

HER EXPENSES  
Bunkering Port Exp.  
Despatch  
Canal Expenses  
Miscellaneous

PAID EXPENSES  
PAID PROFIT / Loss

P. TOTAL 13 Days \$ 7,331.27 per day

RE TOTAL \_\_\_\_\_ Days \$ \_\_\_\_\_ per day

RE TOTAL \_\_\_\_\_ Days \$ \_\_\_\_\_ per day

219a

Defendant's Exhibit E

CREDIT MEMO.

HOLLERIC MARITIME AGENCIES, INC.

NOVEMBER 28, 1973.

V. 13

By Boyd, Weir &amp; Sewell, Inc., Dr.

17 BATTERY PLACE, NEW YORK, N. Y. 10004

0. \*

S/T CAPTAN MATHEOS - C/T November 16, 1973.

OCEAN FREIGHT, Cargo of Crude Oil

LOADED: 11/26/73 ARUBA/PENSACOLA

RATE: WS 300 - \$5.25 (Base Rate \$1.75)

27,338 L/T at \$5.25

COMMISSION at 1 1/4%

BALANCE DUE - CHECK ATTACHED

		\$143,524	50
\$1,794	06		
141,730	44		
\$143,524	50	\$143,524	50

## Defendant's Exhibit I

## Gulf Oil Company - Transportation

1290 Avenue of the Americas, New York, New York 10019

August 27, 1973

RECEIVED

AUG 28 1973

B. W. &amp; S.

Boyd, Weir & Sewell, Inc.  
17 Battery Place  
New York, N. Y.

Attention: Mr. Joseph Christopher

Gentlemen:

S/S "CAPETAN MATHEOS"  
C/P Dated 9/19/69  
Addendum No. 1 - Dated 5/28/71

Referring to our telegram of June 28, 1971 wherein we declared our option to add all off-hire to the charter which has accrued since August 24, 1971 and which may accrue up to September 24, 1973 (the expiration date of the charter), as of this date our records indicate the vessel was off-hire during the following periods:

<u>PERIOD</u>	<u>DESCRIPTION</u>	<u>D - H - M</u>
3/21-4/26/72	Drydocking - Hoboken	36 - 20 - 58
9/29-10/1/72	Repairs - Tumaco	2 - 5 - 25
2/17-2/18/73	Hvy. Tank Sediment - Amuay Bay	1 - 11 - 15
3/29-4/19/73	Drydocking - New York	22 - 22 - 52
6/9 -6/10/73	Repairs - Panama Canal	1 - 5 - 28

Very truly yours,

GULFTANKERS, INC.

*W. W. Graham*

W. W. Graham

Director of Chartering

WWS/ps





221a  
Defendant's Exhibit M

Western Union

Telegram

NA112 807P EDT SEP 29 72 SPB145 NNA090 425-7430  
(NY 273NN303090)PD GULF OIL PGH 0515P EDT09/29/72  
ZCZC 188 PD PITTSBURGH PA. 9-29-72  
HOMERIC MARITIME AGENCIES ATTENTION MR. HATGIS  
17 BATTERY PLACE NEW YORK N Y

BT

CONFIRMING HATGIS/DESANTIS CONVERSATION THIS A.M. THIS WILL PUT OWNERS ON NOTICE THAT VESSEL CAPETAN MATHIOS CONSIDERED OFF HIRE UNTIL ABLE TO RESUME OPERATION IN SEAWORTHY CONDITION STOP WILL EXPECT ADVISE SOONEST IN ORDER THAT PROPER REPLACEMENT TONNAGE BE ACQUIRED FOR SCHEDULED OFF TAKE STOP AS PREVIOUSLY DISCUSSED UTILIZE ALL PHONE NUMBERS GIVEN IN ORDER THAT WE HAVE COMPLETE REPORT QUICKEST.

GULF OIL TRADING COMPANY DESANTIS

*Joined*

## Defendant's Exhibit N

HOBBS SAVILL & CO., LTD.  
INSURANCE BROKERS

TELEPHONE 01-423 3030 (10 LINES)

TELEX 21795

TELEGRAMS

INLAND FEASIBLE LONDON TELEX  
FOREIGN FEASIBLE LONDON EC3

Please note new Telex

835165

*Minster House,*

*Arthur Street,*

*London, E.C.4.*

*and at Lloyds*

YOUR REFERENCE \_\_\_\_\_

OUR REFERENCE H72/217

## COVER NOTE

16th May, 1972.

Fafalios Limited.

We beg to advise you that we have effected insurance according to your orders and for your account as follows:-

Vessels:

1. "MARIA"
2. "ARMONIA"
3. "OTHON"
4. "CAPETAN MATHIOS" Tanker ✓
5. "CAPETAN LUKIS" Tanker ✓
6. "AMAZON"

Warranted existing Class Maintained.

Placed as part of a Fleet of 15 vessels.

Periods:

1. For 12 Months commencing 3.25 a.m. 30th April, 1972 and ending 3.25 a.m. 30th April, 1973, Greenwich Mean Time.
2. For 12 Months commencing 3 p.m. 30th April, 1972 and ending 3 p.m. 30th April, 1973, Greenwich Mean Time.
3. For 12 Months commencing 12.30 a.m. 30th April, 1972 and ending 12.30 a.m. 30th April, 1973, Greenwich Mean Time.
4. For 12 Months commencing Noon 30th April, 1972 and ending Noon 30th April, 1973, Greenwich Mean Time.
5. For 12 Months commencing 10 a.m. 30th April, 1972 and ending 10 a.m. 30th April, 1973, Greenwich Mean Time.
6. For 12 Months commencing 3.30 a.m. 30th April, 1972 and ending 3.30 a.m. 30th April, 1973, Greenwich Mean Time.

cont'd....

## Defendant's Exhibit O

western union

Telegram

NYD143(1615)(1-037125A323)PD 11/19/73 1612

TLX GULF OIL PGH

ZCZC 203 RUSH PD PITTSBURGH PENNA 11-19-73

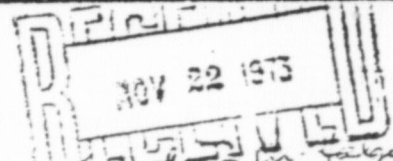
PYS HOMERIC MARITIME AGENCIES INC

N. HATGIS

17 BATTERY PLACE

NEW YORK NEW YORK

COPIES SENT GRAHAM NEW YORK M C PFAUTZ PHILADELPHIA



11-GOT-644 REFERENCE CAPETAN MATHIOS CHARTER PARTY DATED 19TH  
 SEPTEMBER 1969 AS AMENDED COMMA VESSEL PRESENTLY DISCHARGING AT  
 NORFOLK VIRGINIA AND SHOULD SAIL NEXT VOYAGE A. M. 20TH NOVEMBER  
 STOP VESSEL ORDERS FOR NEXT VOYAGE BEING PROCESSED TODAY THROUGH  
 AGENT AND VESSEL IS TO PROCEED IMMEDIATELY TO PUERTO LA CRUZ FOR NEXT  
 LOADING STOP WE ASSUME THERE IS NO COMPLICATION FROM YOUR  
 STANDPOINT IN EXECUTING THESE ORDERS BUT REQUEST YOU ADVISE



The logo for Western Union, featuring the words "WESTERN UNION" in a stylized, blocky font. The word "WESTERN" is on the top line and "UNION" is on the bottom line, both in all caps.The word "Telegram" in a stylized, bold, sans-serif font. The letters are closely spaced and have a slightly irregular, hand-drawn appearance.

URGENTLY BY RETURN CABLE.

E J H MILES

DIRECTOR - CHARTERING

TELEX NUMBER 366277

NNNN

2-N H

0 0483

GULFMARINE PIT

FROM BOYDWELL NEWYORK NOV 20/75 11AM

TO GULF OIL CO PITTSBURGH PA.

ATTENTION: MR. E.J.M. MILES DIRECTOR OF CHARTERING

FROM HOMERIC MARITIME AGENCIES

QUOTE

RE YOUR TELEGRAM NOV 19TH REGARDING CAPTAIN MATHEOS. BECAUSE  
TERMINAL AT NORFOLK ORDERED VESSEL TO SLOW DOWN DISCHARGE, MAINTAINING  
A MAXIMUM BACK PRESSURE OF ONLY 70 PSI, VESSEL WILL NOT SAIL FROM  
NORFOLK UNTIL THE EVENING OF NOV 20TH. WE ACKNOWLEDGE RECEIPT OF  
YOUR INSTRUCTIONS TO HAVE THE VESSEL PROCEED TO PUERTO LA CRUZ  
BUT WOULD ASK THAT YOU ADVISE US NOW OF THE FULL VOYAGE INSTRUCTIONS.  
STOP WE CALL YOUR ATTENTION TO THE FACT THAT IN ACCORDANCE WITH THE  
TERMS OF THE CHARTER THIS VESSEL MUST BE REDELIVERED TO THE OWNERS AT  
A PORT IN THE CARIBBEAN SEA NOT LATER THAN 0115 HOURS NOVEMBER 27TH  
IN VIEW OF THE VESSEL ARRIVING AT PUERTO LA CRUZ THE EARLIEST IN THE  
MORNING OF NOVEMBER 26TH SHE OBVIOUSLY CANNOT EMBARK UPON ANOTHER  
VOYAGE WITHOUT EXCEEDING THE EXPIRATION DATE AS PER THE TERMS OF THE  
CHARTER. STOP OUR SUGGESTION WOULD BE THAT YOU REDELIVER THE VESSEL  
AT WHATEVER PORT IN THE CARIBBEAN SEA YOU DESIRE UPON COMPLETION OF  
HER DAILLY PASSAGE FROM NORFOLK. WE REQUEST YOUR PROMPTEST REPLY  
BY TELETYPE

HOMERIC MARITIME AGENCIES, INC.  
AS AGENTS

UNQUOTE

DWS BY ENCS  
TEL 713-551-4552

END BY

GULFMARINE PIT

NOV 21 1973

4T 5-LL NH

0-0528

GULFMARINE PIT

FROM BOYDWELL NEWYORK NOV 21/73 1123AM

TO GULF OIL MARINE PITTSBURGH PA.

ATTN: MR. E.J.H. MILES DIRECTOR OF CHARTERING  
HIGH COPY TO MR. N. DISANTIS

FROM HOMERIC MARITIME AGENCIES INC, NY  
QUOTE

WITH REFERENCE TO YOUR MESSAGE OF NOV 20TH CONCERNING THE CAPETAN MATHIOS  
WE ACKNOWLEDGE RECEIPT OF YOUR INSTRUCTIONS TO HAVE THE VESSEL PROCEED TO  
PUERTO LA CRUZ FOR FURTHER ORDERS STOP THE VESSEL SAILED FROM THE NOR-  
FOLK PILOT STATION AT 0043 HOURS OF NOVEMBER 21ST AND GIVES AN ETA PUERTO  
LA CRUZ PM OF NOVEMBER 25TH. STOP OWNERS REPEAT THERE IS NOT SUFFICIENT  
TIME PRIOR TO THE FINAL EXPIRATION TIME AND DATE FOR THE VESSEL TO  
PERFORM ANOTHER VOYAGE STOP FURTHER TO DATE THERE IS NO ADDITIONAL  
OFF HIRE WHICH CAN BE ADDED TO THE CHARTER PERIOD STOP WE THEREFORE  
REQUEST YOUR PROMPT CONFIRMATION THAT IT IS YOUR INTENTION TO REDELIVER  
THE VESSEL AT PUERTO LA CRUZ STOP PLEASE ADDRESS YOUR IMMEDIATE REPLY  
BY TEL TO 710-581-4592 (BOYDWELL NYK)

HOMERIC MARITIME AGENCIES INC  
AS AGENTS

UNQUOTE

END NY MMS

GULFMARINE PIT



227a

Defendant's Exhibit O

Telegram

NYG194(1920)(1-052932A325002)PD 11/21/73 1915

TLX GULF OIL PGR

ZCZC 240 PD PITTSBURGH PA 11-21-73

PMS BOYD WEIR AND SEWELL

17 BATTERY PLACE

NEWYORK NY

RECEIVED  
23 1975  
RECEIVED

COPIES SENT W GRAHAM NEWYORK AND M PFAUTZ PHILADELPHIA  
11GOT-753 PLEASE PASS FOLLOWING MESSAGE TO OWNERS OF CAPETAN MATHIOS  
COLON QUOTE REFERENCE YOUR CABLE DATED NOVEMBER 21ST CHARTERER-S  
INSTRUCTIONS STILL STAND FOR VESSEL TO PROCEED PUERTO LA CRUZ FOR  
LOADING AND FURTHER ORDERS STOP AS YOU APPARENTLY INTEND TO  
DISREGARD CHARTERER-S RIGHTS UNDER CLAUSE EIGHT OF TIME CHARTER  
PARTY AND INTEND TO TERMINATE CONTRACT THIS IS TO PUT YOU ON  
NOTICE THAT IF YOUR SUGGESTED INTENTION IS CARRIED THROUGH  
CHARTERERS WILL SEEK LEGAL RECOURSE ETC. TO WHICH THEY ARE  
ENTITLED UNDER THE TERMS AND CONDITIONS OF THE TIME CHARTER PARTY

SF-1201 (RS-69)

RECEIVED  
11/21/73

Telegram

DATED 10TH SEPTEMBER 1969 AS AMENDED STOP UNQUOTE.

E J H MULES DIRECTOR CHARTERING GULFOIL TELEX NUMBER 866277

NNNN

SF-1201 (RS-69)

SENT

NOV 23 1973

5-22 HH

000553

GULFMARINE PIT

FROM BOYD WELLS NEWYORK NOV 23/73 1123AM

TO GULF OIL MARINE PITTSBURGH PA,

ATTN: MR. E.J.H. MILES DIRECTOR OF CHARTERING  
WITH COPY TO MR. M. DISANTIS

FROM HOMERIC MARITIME AGENCIES INC. N Y

U R G E N T

\*\*\*

QUOTE

ACKNOWLEDGE RECEIPT YOUR MESSAGE TRANSMITTED AFTER BUSINESS HOURS  
WEDNESDAY NOV 21ST AT 1033 EST. OWNERS ADVISE THAT ACTING IN FULL  
COMPLIANCE WITH THE TERMS OF CHARTER PARTY DATED SEPT 19, 1969  
AS AMENDED, THEY REFUSE TO ALLOW VESSEL PROCEED TO PUERTO LA CRUZ FOR  
THE PURPOSE OF LOADING AND DESCHARGING PHILADELPHIA, AS PER YOUR  
INSTRUCTIONS TO THE MASTER. STOP OWNERS REQUEST YOU REDELIVER VESSEL  
AT ARUBA HOWEVER IF YOU DO INSIST THEY WILL ORDER VESSEL TO PROCEED TO  
PUERTO LA CRUZ ONLY FOR REDELIVERY PURPOSES. THEY POINT OUT THAT IF  
YOU INSIST VESSEL TO PROCEED TO PUERTO LA CRUZ INSTEAD OF ARUBA,  
WHICH IS CLOSER BY ABOUT 200 MILES, THIS WOULD BE CONTRARY TO THE  
UNITED STATES AND OTHER GOVERNMENTS EFFORTS TO CONSERVE ENERGY AND YOU  
WOULD KNOWINGLY CONTRIBUTE TO THE WASTE OF ABOUT 125 TONS OF FUEL OIL  
BESIDES THE EXTRA COST TO YOU FOR THE ADDITIONAL STEAMING FROM ARUBA  
TO PUERTO LA CRUZ.

PLEASE LET US HAVE BY TWX BY LATEST NOON TODAY YOUR FINAL CONFIRMATION  
OF PORT OF REDELIVERY

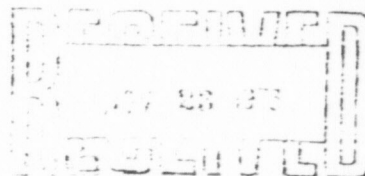
PLS REPLY VIA BOYD WELLS AND WELLS TWX NO. 710-661-4332

HOMERIC MARITIME AGENCIES INC  
AS AGENTS

UNQUOTE

END TWX

GULFMARINE PIT



5-LL NH

U-0568

BYDWEIL NYK

BULFAR PGH B  
NOVEMBER 23, 1973

BYDWEIL  
NEW YORK

PLEASE PASS FOLLOWING MESSAGE TO OWNERS OF CAPETAN MATHEOS QUOTE  
WE ACKNOWLEDGE RECEIPT OF YOUR MESSAGE DATED NOVEMBER 23, 1973  
ADDRESSED ATTENTION E. J. MOLES STOP WE DISAGREE EMPHATICALLY  
WITH YOUR INTERPRETATION OF CHARGEXX CHATXX CHARTER PARTY AND  
ASSERT THAT VESSEL IS ON LAST VOYAGE WHICH YOU ARE COMPELLED TO  
PERFORM PURSUANT TO PARAGRAPH NUMBER 8 OF  
THE CHATXX CHARTER PARTY STOP WE CONFIRM PREVIOUS ORDERS FOR  
VESSEL TO LOAD FULL CARGO AT PUERTO LA CRUZ AND DISCHARGE AT  
PHILADELPHIA STOP PLEASE CONFIRM STOP UNQUOTE

JAMES N. BROWN  
CANADIAN TRANSPORTATION

BYDWEIL NYK

BULFAR PGH B  
710-634-4206P



5-LL NH

0-0571

GULFMARINE PIT

BOYDWELL NY NOV 23 1973 445PM

TO GULF OIL MARINE PITTSBURGH PA.  
ATTN: MR. E.J.H. MILES DIRECTOR OF CHARTERING  
WITH COPY TO MR. N. DISANTIS AND JAMES N BROWN

FROM HOMERIC MARITIME AGENCIES NEW YORK

QUOTE

ACKNOWLEDGE RECEIPT YOUR MESSAGE NOV 23RD, 1973, STOP OWNERS REGRET  
UNREASONABLE POSITION TAKEN BY YOUR COMPANY REGARDING EXPIRY OF  
CAPETAN MATHIOS CHARTER. OWNERS AGAIN MAINTAIN THEIR POSITION THAT  
YOU ARE ENTITLED THE USE OF SUBJECT VESSEL UP TO 0116 HOURS  
NOVEMBER 27, 1973. VESSEL ETA BASIS PUERTO LACRUZ PM NOVEMBER 23TH  
AND THUS IMPOSSIBLE PERFORM ANOTHER VOYAGE. AS YOU HAVE AGAIN FAILED  
TO DECLARE PORT OF REDELIVERY OWNERS ARE INSTRUCTING VESSEL TO PROCEED  
ARUSA FOR REDELIVERY AND ARE ARRANGING WITH SAYBOLT TO CARRY OUT  
REDELIVERY SURVEY

HOMERIC MARITIME AGENCIES INC  
AS AGENTS

UNQUOTE

PLS REDXX READ UNREASONABLE POSITION

GULFMARINE PIT

BOYDWELL NYK

## Defendant's Exhibit P

## Gulf Oil Trading Company

October 1, 1973

P. O. Box 3410  
Pittsburgh, PA 15230

Boyd, Weir & Sewell, Inc.  
17 Battery Place  
New York, New York 10004

Gentlemen:

SUBJECT: S/S "CAPETAN MATHIOS" - VOY. 96

Reference is made to your letter of April 4, 1973, per J.C., in which you requested us to defer deduction of our Off-Hire claim, as represented by invoice G-3174, dated March 27, 1973, amount \$6,897.89.

In a discussion on September 25, 1973, in our Pittsburgh office, Mr. N. Hatgiss, President of Homeric Maritime Agencies and our Mr. N. E. DeSantis resolved the matter by deciding the circumstances were such that an equitable solution would be for each party to accept 50% of the cost involved.

We accordingly enclose Credit Memo G-1736, dated October 1, 1973, amount \$3,448.94, with the advice that we will proceed to deduct the net amount of \$3,448.95 due us when preparing our hire payment for November, 1973. We are pleased that our file on this claim may now be closed, to the satisfaction of all concerned.

Very truly yours,

Original Signed By  
N. T. ADAMS / *ntm*  
N. T. Adams, Manager  
Marine & Transportation Accounting

RTM  
WOY:jcr

Attachment

cc w/att: Homeric Maritime Agencies, Inc., 17 Battery Place, New York, New York ✓



## Defendant's Exhibit P

S/S Capet. Mathios Voy. 96  
Off Hire Statement  
 Phila.-Amuay Bay-Puerto La Cruz  
2/12-2/19/73

			<u>Days</u>	<u>D - H - M</u>
<u>HIRE</u>				
<u>Actual Voyage</u>				
Departure Bar-Phila.	2/12	1630	42.687	
Anchored Amuay Bay	2/17	0700		
Departed Amuay Bay	2/18	0200		
Arrived Bar-PLC	2/19	0230	<u>49.104</u>	
			6.417	6 -10- 00
<u>Theoretical C/P Voyage</u>				
<u>Phila. Direct to PLC</u>				
1900 Miles Bar to Bar ÷ 16K				
= 118.75 Hours = 4D-22H-45M				
			<u>4.948</u>	<u>4 -22- 45</u>
<u>Excess Time</u>				
			1.469	1 -11- 15

FUEL

	<u>Bbls.</u>
<u>Actual Consumption</u>	
<u>Main Propulsion Sea Passage</u>	2553
<u>Theoretical C/P Voyage</u>	
<u>Phila. Direct to PLC</u>	
4.948 Days x 70 Tons	
= 346.36 Tons x 6.585 Bbls.	<u>2281</u>
<u>Excess Fuel</u>	277

Vessel Bunkered Amuay Bay 2/4/73 @ \$2.83 Bbl.

SummaryHIRE

1.469 Day @ 28Day Month \$4152.5714

6,100.13

FUEL

277 Bbls. @ \$ 2.88

797.76

\$6,897.89

WOY:db



NEW JERSEY (201) 419-0200  
NEW YORK (212) 767-2370

233a  
Defendant's Exhibit Q

INVOICE NO. H-1055

JOB NO. 2102

YOUR ORDER NO. \_\_\_\_\_

# UNION MAINTENANCE CORPORATION

1201 Hudson Street  
Hoboken, N. J. 07030

April 12 19 73

TO Homeric Maritime Agencies, Inc.

TERMS: Attention: Mr. Hagis

17 Battery Place, New York, N.Y.

## CAPTAIN MATHIOS

### Bottom Painting:

Supplied necessary labor and equipment to scrape, wirebrush, wash down and degrease as necessary the vessel's hull from keel to 24' mark.

Applied two coats of Mobil paint supplied by owner's from keel to 24' mark. Vessel then went off drydock.

After vessel returned to drydock, applied one full coat of Mobil antifouling from keel to 24' mark. Repainted all draft marks.

FOR THE SUM OF ----- \$7,680.

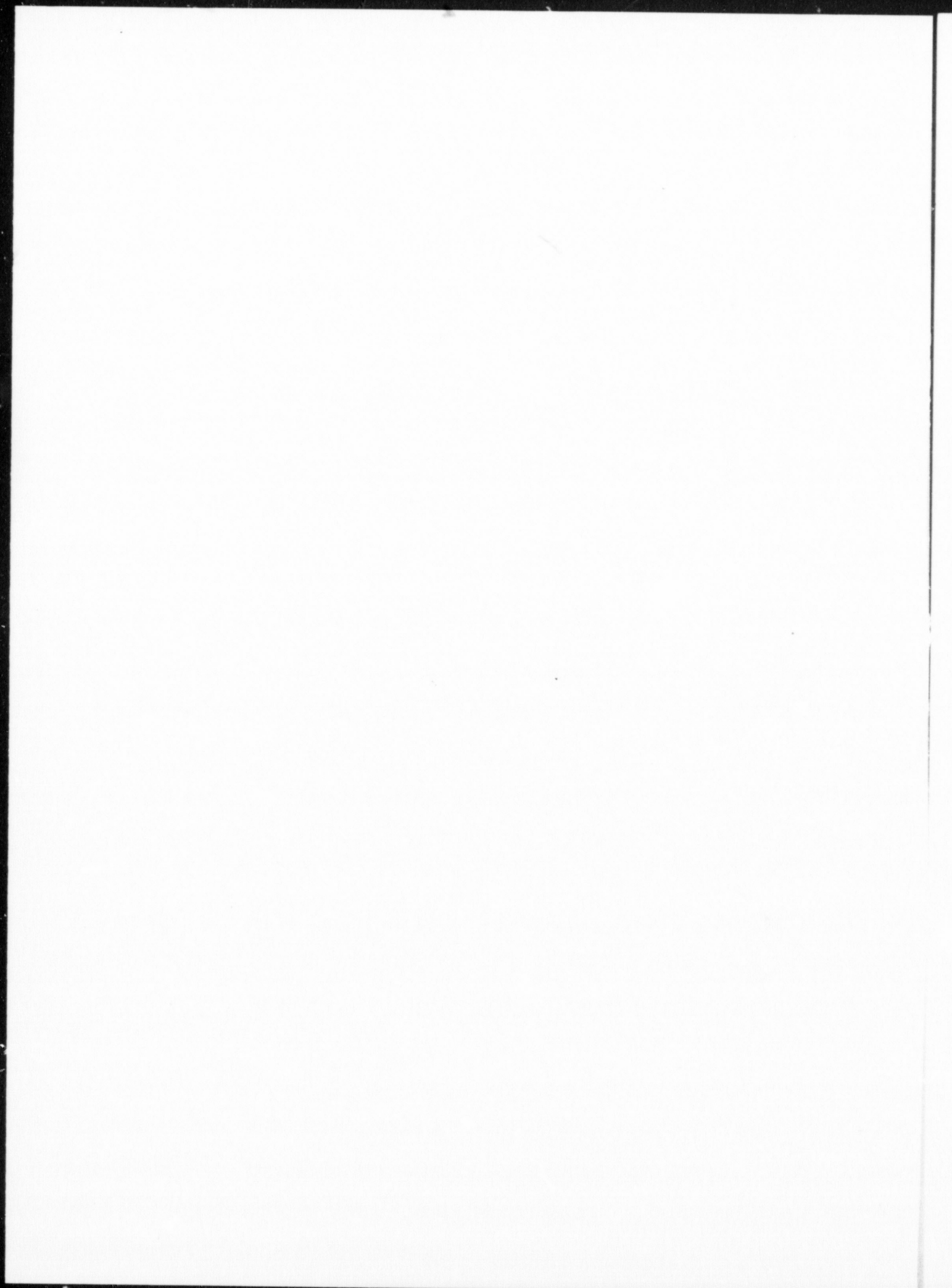
### Washing Hull:

After vessel returned to drydock, washed off bottom with fresh water prior to starting any painting.

FOR THE OF ----- \$150.00

TOTAL SUM ----- \$7830.00

(8)



234a  
Defendant's Exhibit U

TELEPHONE  
OFFICE: 944-6900  
PIER: 834-7071

TO *Norwegian America Line* DR.

GENERAL AGENTS  
ARRIVAL NOTICE & FREIGHT BILL

29 BROADWAY  
New York, N.Y. 10006

To M Homeric Maritime Agencies  
17 Battery Place, Room 1627  
New York N.Y. 10004

DEC 22 1972

19

M.S. Ranenfjord Voyage No. 6-W B/L No. Oslo 40

DEC 23 1972

Expected to arrive: Pier: PIER 92 MARINE ST., BATTERY

1 Package, Propeller Cover.

Ocean Freight.....	\$33 12
Currency Adjustment 4%.....	1 32
Advance Charges.....	<u>29 54</u>

\$63 00

Account: Chief Engineer  
S/T Capetan Mathias  
C/O Bethlehem Steel Corp  
Hoboken N.J. 07030

"THIS IS AN AFFIRMATION OF THE  
PHONE COMPANY'S  
APPOINTMENT."

Consignees must surrender properly endorsed Bill of Lading or give Bond for same, at the New York office of the Norwegian America Line, before release will be given. Unless properly entered in the Custom House, the goods will go in General Order Stores upon expiration of the G.O. Time.

PLEASE NOTE: No claims are allowed unless reported on dock before delivery of goods. Goods remaining on Wharf 5 days after being discharged will be stored at the expense and risk of owners of the goods.

(12)





PC 20/27	10/29	Med/USAC	W425	ARCO
90	10/28	Med/UKC	W155	CONOCO

Handy	October	Carib/USAC	W395	AMOCO
-------	---------	------------	------	-------

23	Mid Nov.	Fao/Aostok	W350	DEUTCHERAC
----	----------	------------	------	------------

NEW ORDERS

Upto 30	Carib/Sweden	November	CLEAN
Handy	Carib/USAC	October	CLEAN
18-35	UKC/Argentina	November	CLEAN
Handy	Sardinia/USAC-USG	Upto 10/20	CLEAN
Upto 35	Greece/USAC-USG	11/10 onward	DIR
Upto 50	Carib/USAC	October	DIR
Handy	Carib/USAC	Upto 11/3	DIR
Handy	Carib/USAC	October	DIR
Upto 22	Carib/UKC-USG	October/Nov.	DIR
Upto 40	Carib/USAC	October	DIR
Upto 60	PC/East	October	DIR
40/60	PC/East	Upto 11/12	DIR
60/90	PC/USNA	11/3-6	DIR
2 x 60 (2 x 100)	PC/East	11/3-15 (11/15-30)	DIR
120/140	PC/East	11/15-20	DIR
15	PC/East	11/22-17	DIR
100	PC/Durban	11/13-30	DIR
Upto 100	PC/East	Upto 11/5	DIR
110	PC/Italy	Upto 11/10	DIR

# SEABROKERS, INC.

45 ROCKEFELLER PLAZA

NEW YORK, N. Y. 10020

CABLE: SEABROKERS, N. Y.  
TELEX: 233552

(ACR) 42 0344

42 0375

TELETYPE: 212 640 5676  
TELEPHONE: JUDSON 2-3711

November 9, 1973

## CANKER MARKET ACTIVITY REPORT

### DINITY LISTED BY LOADING AREA:

CARIBBEAN			
GEMINI	30	Nov.	Below
AVEDRECHT	52	11/10	W200
MARIA LOLLICETTI (R)	45	11/10	W230
PRIMA MAERSK	52	11/15	W230
PENN CHAMPION	34	11/18	W200
LINDA I	42	Spot	W225
PENN CHALLENGER	32	11/20	W225
			W247½
			AMOCO
MEDITERRANEAN			
KRITI STAR	75	11/10	W400
TBN	30	Mid Nov.	RNR
WORLD GUARDIAN	47	11/15	W380
TBN	27	11/16	W300
			GELSENBERG
			IPRAS
			CHECK & FRA
			NETRO

PERSIAN GULF			
TEN (S.S.)	100	11/18	W114½
MARUZEN TEN (R)	225	12/5	W85
EVDORI	70	11/18	W202½
			FINA
			TRITON





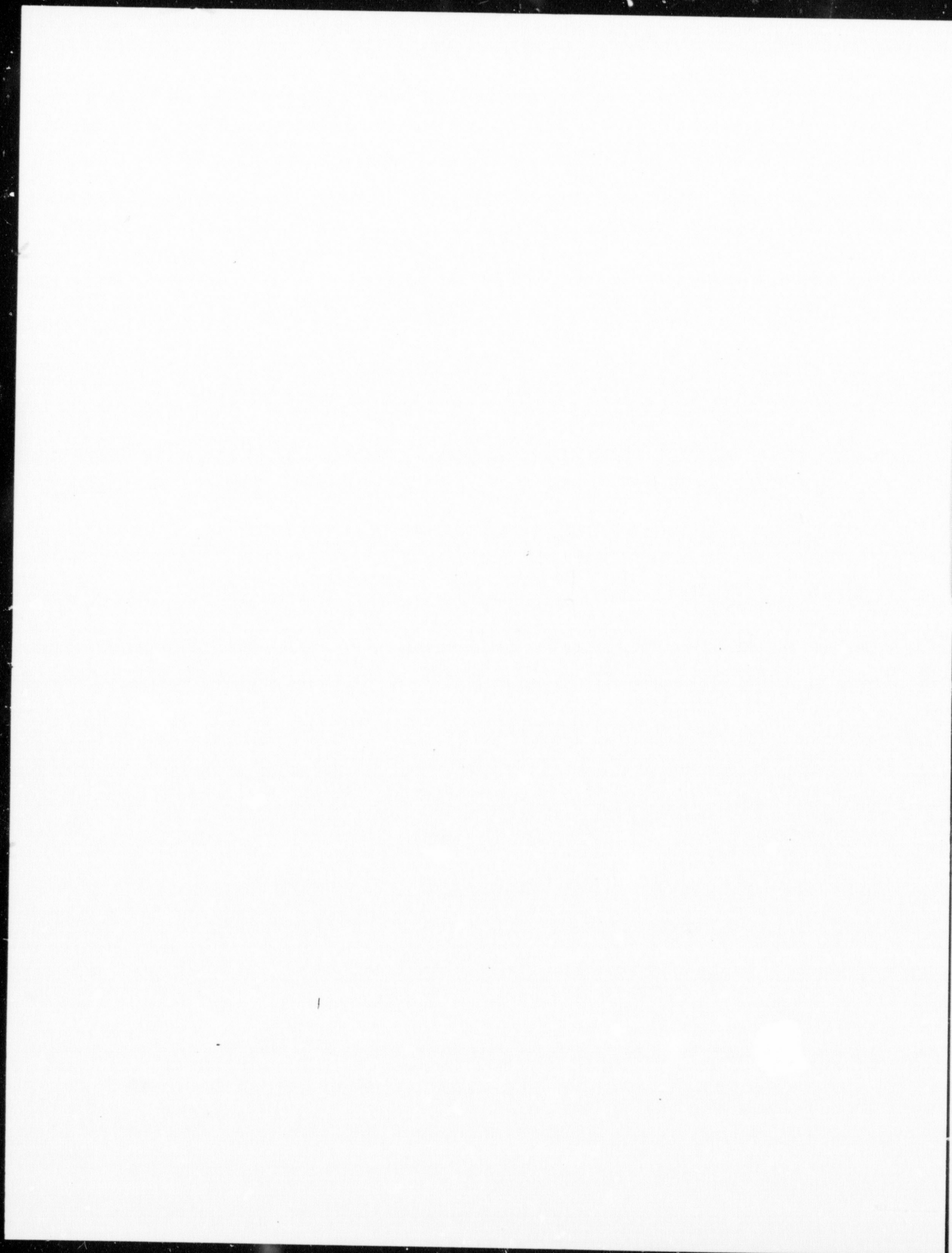
235a

**Defendant's Exhibit X**

236a

*Defendant's Exhibit X*





IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TEXAS PETROLEUM COMPANY

73C1v4284  
October 10, 1975

### COURT'S ORAL DECISION

For the Plaintiff  
Joseph C. Smith  
Burlington, Underwood & Lord  
25 Broadway  
New York, New York 10004

Louis P. Sheinbaum and Geoffrey W. Gill  
Bigham, Englar, Jones & Houston  
99 John Street  
New York, New York 10038

BEFORE THE HONORABLE GEORGE H. BOLDT, Presiding

1 THE COURT: As I said at the close of the  
2 argument, I did not propose to prepare a full-scale and detailed  
3 opinion for posterity but only to summarize the essential and  
4 more significant facts and conclusions of law that I have  
5 reached in determining the case. I have spent a tremendous  
6 amount of time on it. It is an interesting case, and I give my  
7 best to it.

8 It is my practice in stating the con-  
9 siderations upon which I have reviewed the case and upon which,  
10 in part at least, my decision lies by expressing my evaluation  
11 of witnesses. I do this directly and bluntly, and sometimes  
12 that is disagreeable to me. I don't think it will be in this  
13 instance. And it might be unpleasant to the hearer.

14 The plaintiff's case is almost wholly  
15 founded upon the very extended testimony of Mr. Hatgis. Un-  
16 doubtedly, he is a man of very great experience in the chartering  
17 of vessels. He has a very sharp and keen intellect, and he  
18 applies those fine talents with diligence in the service of  
19 his employers. He was the one that made the estimates of the  
20 study upon which the plaintiff's claims for damages are  
21 founded. Quite understandably he is a very vigorous advocate for  
22 his owners and the people that he serves. And from his demeanor  
23 in the trial and from the content of his work in preparing the  
24 claim for damages, it is clear that he sought the utmost penny  
25 that, under any circumstances, anyone could conceive of. Indeed,



1 sometimes he went even beyond that. In short, he was a highly  
2 interested witness and displayed no sense of balance or, to  
3 put it another way, fairness to the adverse party. The  
4 computation and all of his dissertations about them, which went  
5 on here at great length, primarily on cross, it seemed to me  
6 that he was reluctant to acknowledge anything that might favor  
7 the defendant.

8 Naturally, this appraisal of him, while very  
9 praiseworthy from his employer's point of view, leaves his  
10 credibility and the weight and significance of his testimony  
11 severely impaired, in my mind. It may be that his employers  
12 pressured him to pursue the matter in that way, but however it  
13 came about, it was not an impartial approach to a reasonable  
14 result.

15 Mr. Pillat, of course, was a very highly  
16 qualified man, and he impressed me with his integrity and  
17 responsibility. But there was some room for question concerning  
18 some of his opinions because he never did see the ship as it  
19 was to start with, and it was a week or such a matter later  
20 when he actually saw it at first, and by that time, some of the  
21 items had been removed, and so on. I don't pay a great deal of  
22 attention to that, but it is a factor that one evaluating a  
23 witness should note. And I noted it.

24 There was one other witness who testified.  
25 I can't remember his name now, but I have no special comment to

1 make because I didn't see anything especially significant one  
2 way or another concerning that witness.

3 I am sure you will give me credit for  
4 having followed the evidence very closely at every point, and  
5 I think my occasional inquiries of the witness or counsel  
6 were at least reasonably intelligent inquiries and that they  
7 went to the significant matters. This, of course, is mostly a  
8 self serving declaration which, upon motion, perhaps, ought to  
9 be stricken. But I am trying to speak as forthrightly as I  
10 can to you gentlemen, both of whom — counsel, I am speaking  
11 of — have displayed the highest standards of our profession and  
12 which we have come to expect from experienced and able admiralty  
13 — I was going to say proctors, but I guess that is not right  
14 any more.

15 Now for my conclusions.

16 Pursuant to the stipulated pretrial order  
17 the issues for determination by the Court are stated as follows:  
18 This is the literal language in the pretrial order.

19 1. Was the Capetan Mathios unseaworthy  
20 at the time she left Tumaco and at the time she entered the  
21 repair yard in Hoboken, New Jersey in March, 1973?

22 2. Is plaintiff entitled to any recovery  
23 for loss of use, loss of time charter hire and/or loss of  
24 profit as a result of the casualty; and if so, how much is  
25 plaintiff entitled to recover as provable damages?



1                   Generally the measure of the economic loss  
2 of a vessel during detention is net profit. The terms and  
3 conditions of the charter party may be considered by the Court  
4 in determining the amount of lost profits. This is from *Skou*  
5 *v. United States*, 478 F.2d 343 (5th Cir. 1973). It is also  
6 within the discretion of the Court to subtract from a gross  
7 charter amount costs and expenses saved by the owner when his  
8 vessel is not active under a charter.

9                   In considering lost profits the inquiry is  
10 "not whether they could possibly have been made, but is whether  
11 they would have been made." In *the North Star* 151 F. 168, 175  
12 (2d Cir. 1907). It is necessary to show that profits "have  
13 actually been or may reasonably supposed to have been lost."  
14 That is from the Supreme Court in *The Conqueror*, 166 U.S. 110,  
15 125 (1897).

16                  The Court, sitting in admiralty may apply  
17 equitable principles to matters within its jurisdiction and  
18 has wide latitude in choosing a damage standard and applying it.  
19 And that is from *Gilmore and Black, The Law of Admiralty*, (2d Ed  
20 1975) S1-14 p. 41; and is also stated in the United States  
21 Supreme Court decision p. 41; *Brooklyn Eastern Terminal v.*  
22 *United States*, 287 U.S. 170 (1932).

23                  In *Sinclair Refining Co. v. The American*  
24 *Sun*, 188 F.2d 64 (2d Cir. 1951) another case in the circuit, the  
25 Court stated: "whatever the method employed (in calculating loss),



1       it should be one that is reasonably adapted to the circum-  
2       stances of each case so that there will, on the one hand, be no  
3       failure to award damages suffered and on the other, no un-  
4       reasonable award based upon some theoretical concept of loss."  
5       That is 188 F.2d at 66-67, the Sinclair case. Reimbursement  
6       for detention is allowed where potential profits have been lost  
7       because of loss of use. Such potential loss cannot be speculative,  
8       but must be established with reasonable certainty. Again, The  
9       Conqueror is cited for that. 166 U.S. 110. Now, I turn to  
10      the three delay claims with which we are involved in this case.  
11      First The Tumaco Delay. The parties agree plaintiff should  
12      recover lost charter hire for the period that the Capetan Mathios  
13      was delayed in Tumaco for disengagement of a mooring chain from  
14      the propeller and a shipping survey and sea trials. Computation  
15      of the total recovery is stated in defendant's proposed Finding  
16      of Fact No. 29 and hereby is adopted.

17                       Next, I turn to The Hoboken Delay, an  
18      abbreviated heading to indicate the subject matter. When a  
19      vessel is damaged and rendered unseaworthy, that is, unfit for  
20      sea voyage, through wrongful actions of another, the owner may  
21      recover dry docking and repair expenses. That is Atlantic  
22      Refining Company v. Matson Navigation Company, 150 F. Supp 516  
23      (E.D. Pa. 1957). It is very pleasant to cite a district judge.  
24      In the present case, the full extent of the damages incurred in  
25      the Tumaco incident was not discovered until the vessel was

1 placed in drydock in Hoboken, New Jersey on March 29, 1973.

2 The Court finds the evidence insufficient to establish precisely  
3 when the vessel became unseaworthy; however, the Court finds  
4 that at some time prior to the drydocking referred to, the  
5 Tumaco casualty caused the Capetan Mathios to become unfit for  
6 sea voyage and therefore, in fact, unseaworthy.

7 The Court further finds that, in fact, the  
8 owners of the vessel did not know it was unseaworthy at the time  
9 it entered the drydock at Hoboken and did not put the vessel in  
10 drydock for the purpose of repairing unseaworthy conditions.  
11 While in drydock, substantial repairs, not chargeable to the  
12 Tumaco casualty, were made by the vessel owners. The time  
13 required therefor was estimated at four to seven days by a  
14 competent witness called by plaintiff. In the circumstances that  
15 (1) plaintiff long and unreasonably delayed in drydocking its  
16 vessel and (2) the unconvincing evidence purporting to show that  
17 both types of repair were made in the time required to make the  
18 unseaworthy repairs, the Court finds and holds that four days of  
19 the total repair time should be deducted in computing plaintiff's  
20 loss of profits during the drydock period at Hoboken.

21 For the periods plaintiff's vessel was in dry-  
22 dock at Hoboken, the most accurate measure of lost profits is the  
23 charter party terms themselves. There is no dispute that the  
24 figure \$97,077.26 represents the total Tumaco related charter hire  
25 not paid by Gulf Oil as a result of off-hire provisions in the



1 charter party. From that figure should be deducted the costs  
2 and expenses saved by plaintiff in not having the vessel in  
3 actual use. Counsel shall forthwith compute the amount of  
4 such saving and modify the amount of the Hoboken award accord-  
5 ingly. There was no showing that plaintiff's repairs effected at  
6 Hoboken extended the detention period beyond the time necessary  
7 to repair the Tumaco damage. Now I will speak of The Final  
8 Charter Extension Period.

9 Plaintiff's claim for lost profits due to the  
10 25.179 days which were added to the Gulf charter and resulted  
11 in a later redelivery date than anticipated, is hereby denied for  
12 the following reasons:

13 Plaintiff in effect seeks to have defendant  
14 pay twice for a single wrong. The off-hire provision in the  
15 charter party is a contractual provision between plaintiff and  
16 the charterer. Plaintiff well knew that any off-hire time  
17 could be added to the charter term and that plaintiff would be  
18 paid at the agreed rate for any off-hire period added. Plaintiff's  
19 attempt to recover hypothetical profits from defendant over and  
20 above those amounts actually contracted and paid under the  
21 charter party has never before been awarded in similar circum-  
22 stances and this Court finds and holds it to be inequitable under  
23 well accepted equitable principles in Admiralty.

24 In addition and perhaps more significant,  
25 this Court finds plaintiff's proposed calculations for profits



1 lost as a result of the charter term extension to be highly  
2 speculative, and have been based on questionable assumptions  
3 of unforeseeable facts, admitted errors and have not been  
4 established with reasonable or any certainty by the evidence.  
5 Further, market conditions prevailing during the claimed damage  
6 period were very extraordinary and uncertain making it difficult,  
7 if not impossible, to approximate profits with any degree of  
8 certainty. The Court has carefully reviewed each of the items  
9 of speculation and uncertainty enumerated at pages 31-32 of  
10 defendant's post trial brief. Upon full consideration thereof  
11 and the portions of the transcript supporting each item, the  
12 Court hereby finds and adopts all items as facts established by  
13 the evidence in this case. These are as follows:

14 1. The uncertainty of when, whether or how  
15 the charterer would exercise its option under clause 10.

16 2. The uncertainty of whether there would  
17 be any off-hire after the repair period which could also effect  
18 when the vessel would have gone back to owners "but for" the  
19 Tumaco casualty. In fact, there was an off-hire period after the  
20 repair period.

21 3. The uncertainty of when the vessel would  
22 have been returned, but for the Tumaco casualty under overlap/  
23 underlap and/or other actual and potential disputes between a  
24 charterer and owners.

25 4. The uncertainty of when the charters

1 would have been fixed for any voyages after the vessel was so  
2 returned.

3 5. The uncertainty of what rate would be  
4 obtained.

5 6. The uncertainty of how much cargo  
6 would be loaded and finally,

7 7. The gross uncertainty of how long the  
8 assumed voyages would take given items such as weather, sea  
9 conditions, and so on. I fully subscribe to all of these and,  
10 indeed, think they are not exhaustive of other highly unpredictable  
11 matters that are an essential part of plaintiff's computation  
12 of what it might have made and go far from establishing what  
13 it would have made, which is the standard required by the law.

14 The awarding of interest is a matter within  
15 the Court's discretion. III Benedict on Admiralty, S 419 at  
16 191. After full consideration the Court finds it equitable to  
17 award interest at the legal rate from March 29, 1973, to  
18 plaintiff on the awards for the Tumaco and Hoboken delays,  
19 compute on the foregoing ruling.

20  
21 Each party will bear its own costs. Costs  
22 will not be allowed against either party.

23  
24 I have run through the proposed findings of  
25 fact and conclusions of law proposed by both parties and have



1 assembled a collection of them as adopted, if you wish to take  
2 these items down. Defendant's proposed Number 30 and 39 are not  
3 adopted. Defendant's No. 30 is adopted but altered to allow for  
4 the four days. 32 is altered to allow for the four day  
5 deduction I have spoken of in the decision. Plaintiff's  
6 proposed findings four and nine have been included, others not.  
7 In many particulars they are duplicitous, and in certain  
8 instances, they contain wording that I do not think sound proper  
9 and in accordance with my findings. Also, the conclusions of  
10 law offered by the plaintiff one, four, five, and six somewhat  
11 altered, and eight. A little later in the day, I will have these  
12 materials, including a copy of the transcript of the oral mem-  
13 orandum decision available for you, and I want you to have that  
14 much material because the form of judgment offered by the defendant,  
15 or proposed by the defendant — plaintiff did not offer a  
16 proposed form of judgment. I will use this form, but there are  
17 spaces therein fixing amounts and the like and other provisions  
18 that will either have to be altered or omitted, in keeping  
19 with the memorandum decision just pronounced. So if you  
20 gentlemen could come back at about 3:00 o'clock — and I think  
21 you said you could get back at 3: —

22 MR. SHEINBAUM: Yes.

23 MR. SMITH: Yes

24 THE COURT: Then these materials will all be  
25 available and I want to finish the form of the judgment, in its



1 final form. And I want to sign and enter it today, along  
2 with the findings of fact and conclusions of law. And copies  
3 of these documents, of course, will be available to you at that  
4 time.

5 The Court will now recess in this matter and  
6 proceed with the other matter.

7 (The Court thereupon recessed  
8 the above-entitled matter.)  
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## Findings of Fact and Conclusions of Law

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
 COMPANIA PELINEON DE NAVEGACION :  
 S.A., :  
 Plaintiff, :  
 -against- : 73 Civ. 5033 G.H.B.  
 TEXAS PETROLEUM COMPANY, :  
 Defendant. :  
 -----X

FINDINGS OF FACT AND CONCLUSIONS  
OF LAW

1. In late September of 1972, plaintiff was the owner of the tanker CAPETAN MATHIOS. In the crude oil carrying trade in which she was engaged, the CAPETAN MATHIOS had a cargo carrying capacity of 29,100 long tons. Defendant, Texas Petroleum Company, operated a sea berth off the port of Tumaco, Colombia, South America. The berth consisted of a number of mooring buoys to which tankers were to be tied.

2. On September 29, 1972, the CAPETAN MATHIOS was being maneuvered into the berth by a pilot employed by defendant, when the propeller and propeller shaft of the tanker came into contact with the chain of one of the mooring buoys. The chain became wrapped around the propeller and propeller shaft.

3. During the several days immediately following the casualty, i.e. on September 30, October 1 and October 2, 1972, an American Bureau of Shipping surveyor (ABS being the vessel's classification society) examined the CAPETAN MATHIOS at Tumaco. At that time the mooring chain was



*Findings of Fact and Conclusions of Law*

unwrapped from the shaft and propeller of the vessel, and some damage was observed to the propeller blades and the propeller guard. The fair water cone was missing.

4. Sea trials were conducted for approximately 5 hours off Tumaco in order to check for vibration or for any damage to the propulsion system. The vessel appeared to be operating normally. According to the ABS surveyor, the vessel was in satisfactory condition to proceed with her regular operations. Owners advised charterers that the vessel was seaworthy, could continue operations, and could fulfill charter commitments.

5. A Certificate of Seaworthiness was given to the vessel by the ABS, with the recommendation by ABS that the damage be reexamined at the next regular drydock period of the vessel. The vessel left Tumaco and continued to operate.

6. Prior to the casualty of September 29, 1972, the vessel owner intended to drydock the CAPETAN MATHIOS in the summer of 1973.

7. At the time of the casualty of September 29, 1972, the CAPETAN MATHIOS was operating under a time charter to Gulf Oil Corporation. The charter agreement was between plaintiff herein, as owner, and Gulf Oil Corporation, as time charterer. The charter agreement was dated 19 September, 1969 and was for a period of 18 months, "14 days more or less". The tanker started operating under the time charter on or about 18 January 1970. By an addendum dated May 28, 1971, the charter term or period was extended for a period of two years, "one month more or less", so that the vessel was to remain under time



*Findings of Fact and Conclusions of Law*

charter to Gulf Oil Corporation until on or about August 24, 1973, "one month more or less", at the charterer's option.

8. The terms of the time charter agreement, as negotiated by or on behalf of the plaintiff herein and Gulf Oil Corporation, included a provision that at the option of the charterer (Gulf Oil Corporation) any time during which the vessel was "off-hire" during the charter period could be added to the term or period of the charter.

9. From the time of the casualty at Tumaco, in late September of 1972, to March 29, 1973, the CAPETAN MATHIOS properly performed, and was operated, under the above time charter to Gulf Oil Corporation, with no reduction of speed. No speed claim was ever made against plaintiff by the charterer for the latter period.

10. At the time of survey at Tumaco, the vessel had been tipped so that the surveyor in attendance could examine the damaged propeller area. None of the items of damage noted or observed at Tumaco made the vessel unseaworthy.

11. A new fair water cone was sent from Europe and was ready for installation in New York in early or mid-January 1973. The owners and charterer conferred and decided that a mutually convenient time to put the vessel into a repair yard would be late March and early April 1973. Thus, the owners slightly moved ahead the previously planned yard or drydock period of the vessel, and intended to take advantage of said drydock period to repair the damage sustained at Tumaco.

*Findings of Fact and Conclusions of Law*

12. The vessel went into a repair yard in the New York area on March 29, 1973 for what was thought would be an off-hire and repair period of about one week. The vessel did not go into the yard in March 1973 because of any known unseaworthy condition. The vessel did not return to drydock in the summer of 1973.

13. After the vessel went into drydock, the propeller, tail shaft and associated equipment were examined. It was found that much more damage than originally observed, most if not all of it internal, had been sustained at Tumaco. All the damage found was repaired.

13(a). - See attached page 4(a).

14. Owner's work while in the yard consisted of (1) cleaning the vessel's bottom and underwater hull, applying two coats of paint to same, and also applying a coat of anti-fouling paint; and (2) effecting repairs to a boom and sea chest strainer equipment which was taken from the vessel, repaired in the yard's shops, and returned and reinstalled on the ship. In addition, several classification surveys that did not require a drydocking were accomplished, and the owners also took advantage of the drydocking to accomplish a classification survey due in 1974 that did require drydocking. This meant that the vessel did not have to go into drydock for classification purposes in 1974, and had until 1975 to go into drydock for classification purposes upon leaving the New York yard in April of 1973. All of the latter work was not attributable to the Tumaco casualty.

15. If the above owner's work had been done alone, it would have taken about four days to one week to accomplish.

16. The vessel came off hire under the above charter



*Findings of Fact and Conclusions of Law*

13(a) The damage found at Hoboken consisted of damage to the tailshaft keyway and a kink or bend in the tail shaft and the three dowel pins connecting the inner geared ring of the low-pressure turbine flexible coupling were completely sheared. The force of the impact caused the quill shaft to rotate within the flexible coupling flange approximately one-third of a turn (Tr. 112, 113, 118-119, 120; Pl. Exhs. 9, 10, 10a, 11, 26, 27, 28, 31) Had the vessel continued to operate in its damaged condition, it was possible there could have been complete slippage of the shaft and a disaster could have occurred, as a result of overspeeding of the turbine (Tr. 120-121). All the damage discovered resulted from the casualty which occurred at Tumaco on September 29, 1972 (P.T.O., p. 3; Pl. Exh. 11, p. 16; Pl. Exh. 26, p. 16).



*Findings of Fact and Conclusions of Law*

party for the entire time while she was in the New York repair yard, for a period of 22 days, 22 hours and 52 minutes.

17. The vessel came off hire at Tumaco during the delay caused at Tumaco by reason of the casualty of September 29, 1972, for a period of 2 days, 5 hours and 25 minutes.

18. Gulf Oil Corporation withheld and did not pay plaintiff the charter hire for the above periods of time which total 25 days, 4 hours and 17 minutes, or 25.179 days. The amount of time charter hire not paid was \$97,077.26.

19. After all repairs were completed, on or about April 19, 1973, the CAPE TAN MATHIOS resumed operating under the above time charter with Gulf Oil Corporation.

20. In June of 1973 Gulf Oil Corporation exercised its option to extend the charter period by the "one month more or less" and by all the off-hire time experienced by the vessel during the two year "one month more or less" period. With some minor reduction, after some negotiation, the owner of the vessel accepted the length of the off-hire alleged by Gulf Oil Corporation, which included an alleged period of 25.179 days due to the Tumaco casualty. This amounted to an extension of the charter period from August 24 to on or about September 24, 1973, plus an additional period of 64 days, 0 hours, and 21 minutes. During the approximate 64 day extension, the vessel was in use, and plaintiff herein continued to receive charter hire from Gulf Oil Corporation at the agreed charter rate set forth in the above time charter agreement. Of the above 64 day extension period, only 25.179 days related to off-hire

*Findings of Fact and Conclusions of Law*

connected with the Tumaco casualty. Thus, 38 days, 20 hours, 4 minutes of the extended charter period related to off-hire time wholly unconnected to the casualty at Tumaco, and there was a period of off-hire in the 38 day amount that related to an incident occurring after the repair period of the vessel in March/April 1973.

21. The CAPETAN MATHIOS concluded the time charter with Gulf Oil Corporation and was redelivered to plaintiff on November 25, 1973 at 2020 hours.

22. Between the yard period of March/April 1973 and September and October of 1973, the charter market for tankers experienced a rise unprecedented in recent years. The Arab/Israeli war broke out on October 6, 1973. The market remained high for a short time after October 6, but with the cut in crude oil production, and oil embargoes, by various mid-east oil producers that shortly followed, the demand for tankers fell sharply, together with the charter market rate for tankers. The sharp drop in tanker rates started in approximately the last third of October and continued thereafter.

22(a). - See attached page 6(a).

23. Plaintiff and defendant have settled the liability issue in this action. Under the settlement plaintiff was and is to receive 80% of all its provable damages. Plaintiff's damages were alleged to be in two basic categories:-

- 1) Hull and engine damage to the vessel owned by the plaintiff.
- 2) Loss of use and/or loss of time charter hire and/or lost profit.

Plaintiff and defendant settled the question of the quantum



*Findings of Fact and Conclusions of Law*

22(a). Between the time repairs were made to CAPETAN MATHIOS in April 1973 until October 1973, the charter market for voyage charters from the Caribbean to Atlantic Coast United States ports increased from World Scale 260 in mid-June, 1973 to 450-500 in October, 1973, an increase in tanker rates of 300 to 350 per cent (Tr. 14, 20-21, 26, 173-174; Pl. Exh. 12, p. 5; Pl. Exh. 13). The rates declined in the later part of October and early November to World Scale 300-350 (Tr. 216-217; Pl. Exh. 13).



*Findings of Fact and Conclusions of Law*

of damage sustained by the plaintiff by reason of the hull and engine damage sustained by plaintiff's vessel. Defendant paid plaintiff \$180,000.00, i.e. the total amount agreed owed by defendant for the latter damages under the settlement agreement.

24. Thus, the issues for the Court to determine are:-

- 1) Was the plaintiff's vessel, the CAPETAN MATHIOS, unseaworthy when her hull and engine damage was repaired in the New York area in March and April, 1973.
- 2) Is plaintiff entitled to any recovery for loss of use and/or loss of charter hire and/or lost profit, and if so - how much of a recovery is plaintiff entitled to in order to apply the above settlement percentage thereto.

If the Court finds plaintiff is entitled to some recovery for loss of use and/or loss of charter hire and/or lost profit, implicit in issue (2) is another question, i.e. what is the proper measure of damage to be applied.

25. In addition, under the settlement agreement it was agreed that this Court should determine whether plaintiff should be awarded any and/or what interest on any amount determined by the Court to be owed to plaintiff under the 80% settlement for loss of use and/or loss of charter hire and/or lost profit.

26. Subsequent to coming off the time charter with Gulf Oil Corporation in late November of 1973, the CAPETAN MATHIOS was placed into the voyage market, and was operated under voyage charters at least up to August of 1974 for various charterers.

27. Plaintiff claims loss of use, lost charter hire

*Findings of Fact and Conclusions of Law*

or lost profit for three periods: (1) the delay at Tumaco in late September and early October 1972; (2) the repair period in March/April 1973; and (3) 25.179 days of the time charter extension in late October and/or November 1973, claiming that with respect to the last period, the tanker could have been chartered out at a more profitable rate under voyage charters, as compared to the rate under the time charter with Gulf Oil Corporation.

28. The owners of the CAPETAN MATHIOS earned \$2,179.36 net profit per day under the time charter with Gulf Oil Corporation. Plaintiff claims lost profit during the time charter extension due to off-hire, related to the Tumaco casualty, in the amount of \$303,297.05, in addition to the claim to recover the above \$97,077.26 charter hire not paid by Gulf Oil Corporation by reason of the delay at Tumaco and the repair period in March/April 1973.

29. For the period of delay at Tumaco in late September and early October, the plaintiff is entitled to loss of use measured by the rate of the time charter hire plaintiff was not paid for two days, 5 hours and 25 minutes. Since plaintiff was entitled to hire of \$97,077.26 for 25.179 days under the time charter party, for 2 days, 5 hours and 25 minutes (2.226 days) plaintiff's provable damages for loss of use are  $\frac{2.226}{25.179} \times \$97,077.26$  or \$8,582.31.

30. In addition, under the above facts, the vessel owner is entitled to recover for loss of use only for that portion of the repair period that Tumaco related repairs extended the time within which owner's work would have taken. See the above cited authorities, and see Moore McCormack Lines v. S.S. CAMDEN, 244 F.2d 198 (2d Cir. 1957), cert. den. 355 U.S. 822 (1957); The Cape Araxos, 348 F.2d 33 (3rd Cir. 1965); The Alabama/Dalfonn, supra, and Pan American Petroleum Company v. U.S., supra.



*Findings of Fact and Conclusions of Law*

31. The repair period in March/April 1973 was 22 days, 22 hours and 52 minutes. Since owner's repairs took or would have taken 4 days, the provable damages of plaintiff, for loss of use during the repair period, measured by the time charter rate, are  $18.953/25.179 \times 97,077.26$  or \$73,099.18.

32. The oral memorandum decision of the Court rendered in open court October 10, 1975 by this reference is hereby made a part of the Findings of Fact and Conclusions of Law.

## CONCLUSIONS OF LAW

32(a). This Court has jurisdiction of the parties and the subject matter of this action is a maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. 28 U.S.C. §1333.



*Findings of Fact and Conclusions of Law*

33. Under the facts of this case, plaintiff is not entitled to any alleged loss of profit or loss of charter hire for any part of the extension period. The proper measure of damage to be applied is the charter rate in the time charter that the CAPTAIN MATHIOS was operating under at the time of the casualty and the delay at Tumaco, and the repair period. The El Monte, 252 Fed. 59 (5th Cir. 1918), cert. den. 248 U.S. 573 (1918); Sabine Transportation Co. v. S.S. ESSO UTICA, 1955 A.M.C. 2102 (E.D. Texas 1955); The Arvidale, 61 F. Supp. 191 (S.D.N.Y. 1945), aff'd 153 F.2d 869 (2d Cir. 1946), cert. den. 328 U.S. 835 (1946); Quevilly-Sampson, 1938 A.M.C. 347 (S.D.N.Y.); The Bergenland, 36 Fed. 504 (S.D.N.Y. 1888); The Soya, 1956, 1 Lloyd's List Law Reports 557 (Court of Appeal).

34. The loss of profit allegedly sustained by plaintiff in the extension period of the time charter was too unforeseeable, remote and speculative to properly be considered as consequential damages recoverable in this tort action. Moreover, plaintiff has not proven any such damage with the reasonable certainty required in a case where a party is seeking a recovery for lost profit.

35. The remote, unforeseeable and speculative nature of the claim for lost profit during the extension period may be seen by considering the following:

- (a) The very existence of the off-hire extension option in the time charter was a matter of negotiation between the charterer and owner.
- (b) It would not have been unusual for the above clause to have been stricken during the negotiations, and not be a condition under which the vessel was chartered. In addition it has not been shown that defendant had any idea of what kind of charter the tanker was being operated under and it could have been under a voyage charter or even a bareboat charter for all anyone knew or anticipated.

*Findings of Fact and Conclusions of Law*

- (c) It was always uncertain, up to late June of 1973, when the charterer exercised its option, as to whether, when or how the charterer would exercise its option.
- (d) The rise in the market between April 1973 and September and October of 1973 was unprecedented in recent years.
- (e) The amount of off-hire to be added to the time charter period was a matter to be evaluated and presented by the charterer, and considered and evaluated by the owner, with any differences to be negotiated out between the two. In addition, off-hire occurring ever after the repair period could have effected the time the owner got back his vessel after an off-hire extension, as it did.
- (f) The time when the vessel should or would have come back to the owner but for the Tumaco casualty is most speculative, given problems of overlap/underlap under the law and chartering practice, any disputes that might have resulted, and a dispute that actually did take place at the end of the time charter in question in late November of 1973.
- (g) There were great fluctuations, and much instability in the voyage world scale rate from day to day, or even within the same day, around the time when the owners might have gotten the vessel back, but for the Tumaco casualty.
- (h) Applying a "but for" test to see how the Tumaco casualty effected the subsequent chartering history and/or economic loss or gain of the owner might require following the history of the vessel to the end of its service or career for the plaintiff. See The Elya, 1956 Lloyd's List Law Reports 557.
- (i) The gross uncertainties as to what world scale rates, what ports, how much cargo, how much bunkers would have cost, and how long the voyages of the vessel would have been, if voyage charters were made by the vessel during the extension period.

36. It is also possible that had Tumaco casualty not occurred, and the vessel had come back to her owners earlier, an offer for a time charter would have been



*Findings of Fact and Conclusions of Law*

made that the owners might have accepted, rather than put the vessel into the more risky voyage or spot market trade.

37. Under the facts of this case the "actual loss" of the plaintiff cannot be considered to include any alleged loss profit during the extension period, and no such "actual loss" has been proven to the satisfaction of the Court. The Conqueror, 156 U.S. 11 (1897), and The North Star, 151 Fed. 168 (2d Cir. 1907).

37(a). Plaintiff was under a nondelegable duty to exercise due diligence to make his vessel seaworthy. 46 U.S.C. §1304(1); 46 U.S.C. §§181 et seq. Federazione Italiana D.C.A. v. Mandask Compania de Vapores, (S.D.N.Y. 1966) 284 F. Supp. 356 aff'd in part, rev'd in part (2 Cir. 1968), 388 F.2d 434, cert. denied 393 U.S. 328 (1968); John Penny & Sons, Limited v. M/V Swivel, (D. Mass., 1967), 265 F. Supp. 302.

37(b). When a vessel has a certificate of seaworthiness from the American Bureau of Shipping or other authorized agency that of itself does not establish that the vessel is seaworthy. In Re Marine Sulphur Queen, (2 Cir., 1972) 460 F.2d 89, cert. denied 409 U.S. 982 (1972); Federazione Italiana D.C.A. v. Mandask Compania de Vapores, *supra*; Frederick Snare Corp. v. Moran Towing & Transportation Co., (S.D.N.Y. 1961) 195 F. Supp. 639; States Steamship Co. v. United States, (9 Cir., 1957), 259 F.2d 458, cert. denied 358 U.S. 933 (1959), reh. den. 359 U.S. 921 (1959).

37(c). The plaintiff was under a duty to investigate the extent of the damage sustained in the Tumaco casualty, and exercise due diligence to ensure the seaworthiness of the vessel until it drydocked CAPETAN MATHIOS in



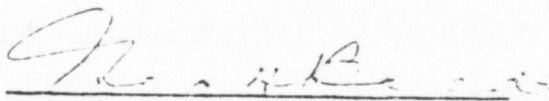
*Findings of Fact and Conclusions of Law*

March/April, 1973. Great Atlantic & Pacific Tea Co. v. Brasileiro, (2 Cir., 1947), 159 F.2d 661, cert. den. 331 U.S. 836 (1947); Waterman Steamship Corp. v. The Gay Cottons, (9 Cir., 1969), 414 F.2d 724; Avera v. Florida Towing Corporation, (5 Cir., 1963), 322 F.2d 155.

37(d). The measure of damages and computation must vary with the facts of each case to fulfill the purposes of compensatory awards and the doctrine of restitutio in integrum. Brooklyn Eastern Terminal v. United States, 287 U.S. 170 (1932); The Potomac, 105 U.S. 630 (1881); Moore McCormack Lines, Inc. v. The Esso Camden, (2 Cir., 1957), 244 F.2d 198, cert. denied, 355 U.S. 822 (1957); The Gylfe v. The Trujillo, (2 Cir., 1954), 209 F.2d 386; Sinclair Refining Co. v. The American Sun, (2 Cir., 1951), 188 F.2d 64; The Hygrade No. 24 v. The Dynamic, (2 Cir., 1956), 233 F.2d 444.

38. Under the above settlement agreement plaintiff is entitled to 80% of its above provable damages.

39. Judgment is to be entered in accordance with the above, and the 80% settlement agreement between the parties.

  
U. S. D. J.

October 10, 1975

## Judgment

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x

COMPANIA PELINEON DE NAVEGACION,  
S.A.,

Plaintiff,

-against-

TEXAS PETROLEUM COMPANY,

Defendant.

JUDGMENT

73 Civ. 5033 G.H.B.

-----x

This cause having duly come on to be heard and tried on September 26 and September 29, 1975, upon the pleadings and proofs, and having been briefed, argued and submitted by the attorneys for the respective parties, and the Court, after due deliberation, having made its Findings of Fact and Conclusions of Law under date of October 10, 1975, finding that the provable damages of Plaintiff for all loss of use or loss of charter hire or lost profit is in the amount of \$81,681.49, and further finding that Plaintiff is entitled to interest thereon, at 6% per annum from March 29, 1973 to date, and the parties having previously entered into an agreement of settlement under the terms of which Plaintiff is to recover 80% of its provable damages, as determined by this Court, it is

ORDERED, ADJUDGED AND DECREED that Plaintiff recover of and from the Defendant herein the sum of \$65,345.19, plus interest of \$9,912.86 for a total of \$75,258.05, with each side bearing its own costs, and it is further

ORDERED, ADJUDGED AND DECREED that unless this judgment be satisfied, or proceedings thereon stayed by an appeal, within thirty days after the entry of this

265a  
*Judgment*

judgment, the Plaintiff shall have execution against the Defendant, his goods, chattels and lands to satisfy this judgment.

Filed: New York, New York

October 10 , 1975

15/ George H. Boldt  
\_\_\_\_\_  
GEORGE H. BOLDT  
Presiding Judge



## Notice of Appeal

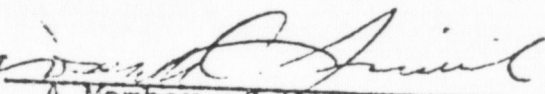
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - X  
COMPANIA PELINEON DE NAVEGACION, :  
S.A., :  
Plaintiff, : Civ. 73-5033 (GBH)  
- against - :  
TEXAS PETROLEUM COMPANY, : NOTICE OF APPEAL  
Defendants. :  
- - - - - X

Notice is hereby given that Compania Pelineon De Navegacion, S.A., plaintiff above named, hereby appeals to the United States Court of Appeals for the Second Circuit from so much of the judgment entered in this action on October 10, 1975 as disallows loss of charter hire for four days of plaintiff's claim for loss of charter hire for the full repair period in March/April, 1973; plaintiff's claim for loss of profits in the period October/November, 1973 in the amount of \$303,297.05; and denying plaintiff's costs as the prevailing party.

November 7, 1975

BURLINGHAM UNDERWOOD & LORD  
Attorneys for Plaintiff

By   
A Member of the Firm  
25 Broadway  
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2 COPY RECEIVED  
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